


A U S T I N C I T Y C O U N C I L
AGENDA



Thursday, April 27, 2006

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Zone Hearings/App Ordinances/Restrictive Covenants
RECOMMENDATION FOR COUNCIL
ACTION

ITEM NO: 45 PH

Subject: C14-05-0091 - Lelah's Crossing - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1300 West Dittmar Road (South Boggy Creek Watershed) from general office (GO) district zoning to multi-family residence - limited density (MF-1) district zoning. Zoning and Platting Commission Recommendation: To grant townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning with conditions. Applicant: Dittmar Properties, Ltd. (John R. Kleas). Agent: Thrower Design (Ron Thrower). City Staff: Wendy Walsh, 974-7719. A valid petition has been filed in opposition to this rezoning request.

Additional Backup Material

(click to open)

 **Staff Report**

For More Information:

ZONING CHANGE REVIEW SHEET

CASE: C14-05-0091

Z.P.C. DATE: December 6, 2005
December 20, 2005
January 31, 2006
February 21, 2006

ADDRESS: 1300 West Dittmar Road

OWNER: Dittmar Properties, Ltd. (John R. Kleas) **AGENT:** Thrower Design
(Ron Thrower)

ZONING FROM: DR; GO **TO:** MF-1 **AREA:** 42.029 acres

SUMMARY STAFF RECOMMENDATION:

The Staff's recommendation is to grant townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning. The Conditional Overlay: 1) limit Sherwood Road to function as a secondary vehicular access point; 2) prohibits vehicular access to Damon Road; and 3) limits development to 2,000 vehicle trips per day.

If non-residential zoning is recommended for this site, then Staff recommends a Restrictive Covenant to include all recommendations listed in the Neighborhood Traffic Analysis memorandum, dated November 9, 2005 and provided as Attachment A.

ZONING & PLATTING COMMISSION RECOMMENDATION:

December 6, 2005: *APPROVED A POSTPONEMENT REQUEST BY THE STAFF TO 12/20/05.*

[J. MARTINEZ; M. HAWTHORNE – 2ND] (7-0) J. PINNELLI – ILL, K. JACKSON – ABSENT

December 20, 2005: *APPROVED A POSTPONEMENT REQUEST BY THE ADJACENT PROPERTY OWNER TO 01/31/06.*

[J. MARTINEZ; T. RABAGO – 2ND] (9-0)

January 31, 2006: *POSTPONED TO 02/21/06; BY APPLICANT, NEIGHBORHOOD & ADJACENT PROPERTY OWNER.*

[C. HAMMOND, J. MARTINEZ 2ND] (8-0) J. GOHIL – ABSENT

February 21, 2006: *APPROVED STAFF'S RECOMMENDATION OF SF-6-CO DISTRICT ZONING, WITH A RESTRICTIVE COVENANT FOR THE NEIGHBORHOOD TRAFFIC ANALYSIS AS RECOMMENDED BY STAFF; WITH ADDITIONAL CONDITIONS OF LIMITING DENSITY TO 6 UNITS PER ACRE AND BUILDING HEIGHT TO 20-FEET.*

[M. HAWTHORNE, J. MARTINEZ 2ND] (8-0) T. RABAGO – LEFT EARLY

NOTE: THE NEIGHBORHOOD ASSOCIATION, ADJACENT PROPERTY OWNER AND APPLICANT AGREED THAT THE CASE WOULD NOT BE SCHEDULED FOR COUNCIL CONSIDERATION UNTIL THE PRIVATE RESTRICTIVE COVENANTS ARE SIGNED.

ISSUES:

The Applicant is in agreement with the Staff recommendation.

The Applicant has discussed this rezoning case with the Matthews Lane Neighborhood Association (MLNA) and MLNA has provided a letter of support for the rezoning, provided certain conditions are met. Staff has also received comment forms in opposition to this rezoning case. All correspondence is located at the back of the Staff report.

A valid petition of 38.53% has been filed by adjacent property owners in opposition to this rezoning request. Petition information is located at the back of the Staff report.

DEPARTMENT COMMENTS:

The subject rezoning area represents a portion of the former Brown School facility (a hospital (general) use), is undeveloped and zoned general office (GO) district by a 1985 case. A Restrictive Covenant accompanied the 1985 case and provides for a zoning rollback to the rural residence (RR) district should the hospital (general) use be discontinued. An amendment of the Restrictive Covenant to terminate the rollback provision as it pertains to the rezoning area is being considered as a related case. The rezoning area extends between Dittmar Road on the south, and Damon Road, Albert Lane and Sherwood Road on the north, and the Missouri-Pacific railroad tracks on the west. The remainder of the former Brown School property forms the east boundary, along with manufactured homes of the Brownleaf Estates subdivision. South Boggy Creek, the Longhorn pipeline and an active natural gas pipeline extend through the southern portion of the site. With the exception of the school facility, the surrounding area consists of residential uses, on lots of varying sizes. Please refer to Exhibits A (Zoning Map), A-1 and A-2 (Aerial Views).

The Applicant has requested the multi-family residence-limited density (MF-1) district for the development of 236 condominium units. The creek and pipelines present a challenge in site layout, but also provide the opportunity to cluster residential development. Staff recommends the townhouse and condominium residence (SF-6) district consistent with the Applicant's development intent, and to provide greater compatibility with the predominant single family residential character of the surrounding area. Consistent with the recommendations of the Neighborhood Traffic Analysis, the Staff also recommends a Conditional Overlay to cover the following items: 1) limit Sherwood Road to function as a secondary vehicular access point (therefore, primary vehicular access would be from Dittmar Road, an arterial); 2) prohibit vehicular access to Damon Road, a cul-de-sac; and 3) limit development to 2,000 vehicle trips per day.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	DR; GO	Undeveloped
<i>North</i>	DR	Single family homes; Manufactured homes
<i>South</i>	SF-4A; SF-2; P	Single family residences; City park and recreation facility
<i>East</i>	GO; MH; SF-2	Neurological treatment center; Manufactured homes; Single family residences
<i>West</i>	SF-2-CO; SF-2; SF-3; DR; W/LO-CO; LO-CO	Railroad tracks; Single family residences; Church; Undeveloped; Manufactured homes

AREA STUDY: N / A**NTA:** Is required -- please refer to Attachment A**WATERSHED:** South Boggy Creek**DESIRED DEVELOPMENT ZONE:** Yes**CAPITOL VIEW CORRIDOR:** No**SCENIC ROADWAY:** No**NEIGHBORHOOD ORGANIZATIONS:**





26 – Far South Austin Community Association
 39 – Matthews Lane Neighborhood Association
 262 – Beaconridge Neighborhood Association
 300 – Terrell Lane Interceptor Association
 428 – Barton Springs / Edwards Aquifer Conservation District
 511 – Austin Neighborhoods Council 627 – Onion Creek Homeowners Association
 658 – Texas Oaks North Neighborhood Association
 672 – Overland Park Homeowners Association
 742 – Austin Independent School District
 948 – South by Southeast Neighborhood Organization

SCHOOLS:

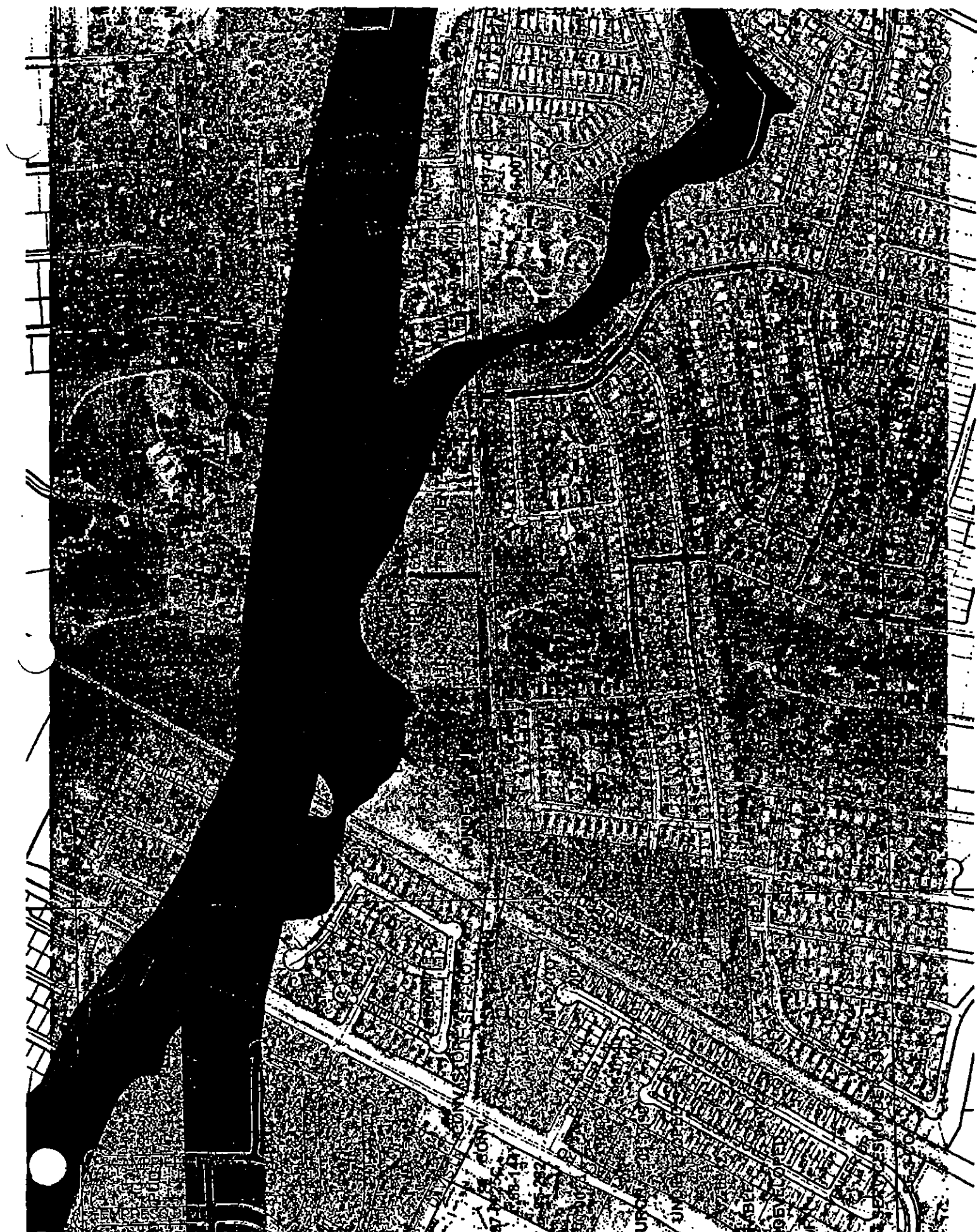
Casey Elementary School – 110% at capacity in 2005
 Bedichek Middle School – 83% at capacity in 2005
 Charles Akins High School – 101% at capacity in 2005

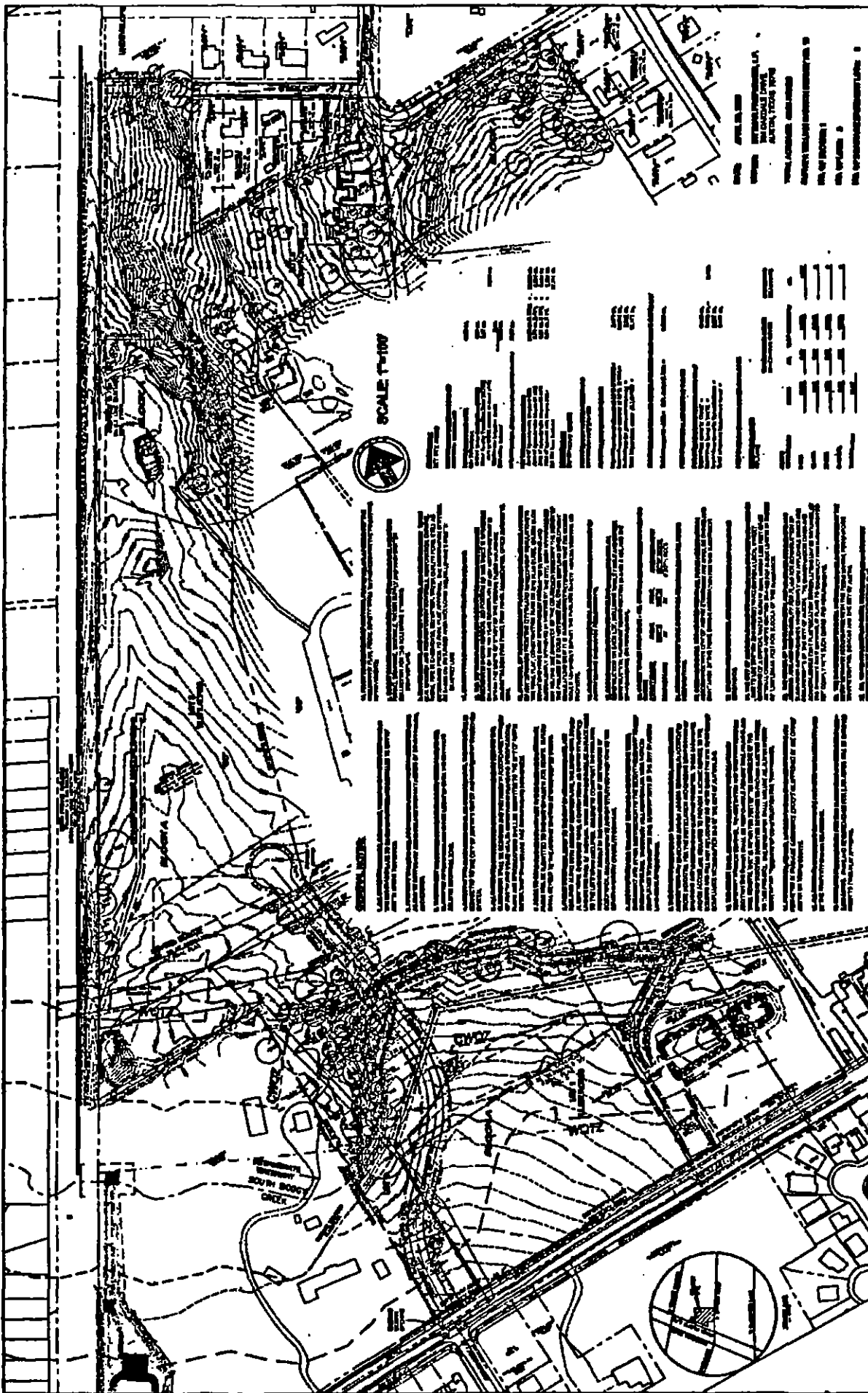
The optimal capacity is between 100% and 110% of permanent capacity. Those schools over 125% are considered to be in excess of the desired capacity and in need of relief. **Source:** Mr. Dan Robertson, Director of Planning Services at Austin Independent School District.



	SUBJECT TRACT 	ZONING EXHIBIT A		CITY GRID REFERENCE NUMBER F10
	PENDING CASE 			
	ZONING BOUNDARY 	CASE #: C14-05-0091	DATE: 05-07	
	CASE MGR: W. WALSH	ADDRESS: 1300 W DITTMAR RD	INTLS: 6M	
SUBJECT AREA (acres): 42.029				







LEAHS CROSSING
1200 DITTMAR RD.
AUSTIN, TX 78746

PRELIMINARY PLAN

Thruway Design
LAND PLANNERS

AMC DESIGN GROUP

PROJECT NO. 1200 DITTMAR RD. AUSTIN, TX 78746

1 of 1

EXHIBIT B IN SUBDIVISION-PROGRESS



MEMORANDUM

TO: Wendy Walsh, Case Manager
CC: Ron Thrower
FROM: Emily M. Barron, Transportation Planner
DATE: November 21, 2005
SUBJECT: Neighborhood Traffic Analysis for Sherwood Road
Zoning Case: Lelah's Crossing, C14-05-0091

The Transportation Section has performed a neighborhood traffic impact analysis for the above referenced case and offers the following comments.

The 42.29-acre tract proposes a multi family use. The site is located in south Austin on Dittmar Road just east of Manchaca Road. The project, which is currently zoned General Office (GO), is requesting a change to Multi Family Residence (MF-1). The tract will have vehicular access to West Dittmar Road and Sherwood Road. Surrounding the tract to the north is single family, to the west is a railroad tract, to the east is the site formally known as the Brown School and Dittmar Road creates the southern border.

Roadways

Sherwood Road is classified as a local street with 56' of right-of-way and 20' of pavement and carries approximately 302 vehicles per day (vpd).

Dittmar Road is classified as an arterial roadway with 90' of right-of-way and a varying pavement width and carries approximately 4,319 vpd east of Manchaca Road. Though Dittmar Road is an arterial and a traffic analysis is not required for this roadway it is included because it will serve as the primary access for the site and should be considered as information.

Trip Generation and Traffic Analysis

Based on the ITE's publication Trip Generation, the proposed development at the time of site plan will generate approximately 2,000 vehicles per day (vpd).

Trip Generation		
LAND USE	SIZE	VPD
Condominiums	380du	2,000
TOTAL		2,000

Distribution of trips was estimated as follows:

Street	Site Traffic
Sherwood Road	10%
Dittmar Road	90%

ATTACHMENT A

Below is a table containing the estimated number of trips that will affect each street:

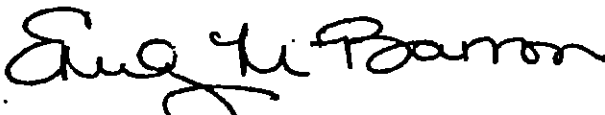
Street	Existing Traffic (vpd)	Site Traffic (vpd)	Total Traffic after Project (vpd)
Sherwood Road	302	200	502
Dittmar Road	4,319	1,800	6,119

The Land Development Code specifies desirable operating levels for certain streets in section 25-6-116. These levels are as follows: A residential local or collector street with a pavement width of less than 30' should carry 1,200 vehicles per day or less.

Conclusions

1. The neighborhood traffic analysis was triggered because the projected number of vehicle trips generated by the project exceeds the vehicle trips per day generated by existing uses by at least 300 trips per day, and the project has access to a local or residential collector street where at least 50 percent of the site frontage has an SF-5 or more restrictive zoning designation. Sherwood Road is classified as a local street.
2. The traffic along Sherwood Road does not exceed the minimum requirements established in Section 25-6-116. However, access to Sherwood Road should be considered as secondary access with the main entrance for the site off of Dittmar Road.
3. Damon Lane was not considered as part of this neighborhood traffic analysis even though the site has frontage on this street. It is recommended that access to Damon be prohibited as a condition of zoning.
4. This site should be limited through a conditional overlay to 2,000 trips per day.
5. The City Council may approve a zoning application if it is determined that the applicant has satisfactorily mitigated adverse traffic effects or the projected additional traffic from a project has an insignificant effect on the residential street.

If you have any questions or require additional information, please contact me 974-2788.



Emily M. Barron

Sr. Planner - Transportation Review

Watershed Protection and Development Review Department

SUMMARY STAFF RECOMMENDATION:

The Staff's recommendation is to grant townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning. The Conditional Overlay: 1) limit Sherwood Road to function as a secondary vehicular access point; 2) prohibits vehicular access to Damon Road; and 3) limits development to 2,000 vehicle trips per day.

If non-residential zoning is recommended for this site, then Staff recommends a Restrictive Covenant to include all recommendations listed in the Neighborhood Traffic Analysis memorandum, dated November 9, 2005 and provided as Attachment A.

BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)

1. The proposed zoning should be consistent with the purpose statement of the district sought.

The SF-6, townhouse and condominium residence district is intended as an area for moderate density single family, duplex, two-family, townhouse and condominium use. The applicant intends to develop the property with a condominium project consisting of two attached condominium units per structure.

2. Zoning changes should promote an orderly and compatible relationship among land uses.

Staff recommends the townhouse and condominium residence (SF-6) district consistent with the Applicant's development intent, to provide the opportunity to cluster residential development in recognition of the creek and pipelines, and to provide greater compatibility with the predominant single family residential character of the surrounding area. Consistent with the recommendations of the Neighborhood Traffic Analysis, the Staff also recommends a Conditional Overlay to cover the following items: 1) limit Sherwood Road to function as a secondary vehicular access point (therefore, primary vehicular access would be from Dittmar Road, an arterial); 2) prohibit vehicular access to Damon Road, a cul-de-sac; and 3) limit development to 2,000 vehicle trips per day.

EXISTING CONDITIONS**Site Characteristics**

The site is undeveloped. South Boggy Creek extends through the southern portion of the site. There are two active, underground pipelines that extend through this property and continue to the northwest: one is natural gas liquids and the other carries refined products (Longhorn). The Pipeline Ordinance applies to all new construction and establishes a 200-foot wide setback from a hazardous pipeline.

Impervious Cover

The maximum impervious cover allowed by the SF-6 zoning district would be 55%, which is a consistent figure between the zoning and watershed regulations.

Environmental

The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Desired Development Zone. The site is in the South Boggy Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to flood plain maps, there is a floodplain within the project boundary. Based upon the close proximity of flood plain, offsite drainage should be calculated to determine the exact location of the boundaries. No development is permitted in the Critical Water Quality Zone, while impervious cover is limited to 30% in the Water Quality Transition Zone.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

- Structural controls: Sedimentation and filtration basins with increased capture volume and 2 year detention.

Transportation

If the requested zoning is granted, it is recommended that access to Damon Road be prohibited as a condition of zoning because it is a single outlet street serving single family.

The trip generation under the requested zoning is estimated to be 4,833 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be

limited through a conditional overlay to less than 2,000 vehicle trips per day. [LDC, 25-6-117]

A Neighborhood Traffic Analysis is required and will be performed for this project by the Transportation Review staff for Albert Road and Sherwood Road [LDC, Sec. 25-6-114]. The City requested that the Applicant provide traffic counts for Albert Road between Matthews Lane and the subject property. Results are provided in Attachment A.

Water and Wastewater

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, offsite main extension, system upgrades, utility relocation, and utility adjustment to serve site, each lot, and land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The utility construction must be inspected by the City. The landowner must pay the associated City fees.

Compatibility Standards

This tract is undeveloped. Any new construction on this site would be subject to compatibility development regulations due to the existing SF-2-CO and SF-2 zoned property to the east and south, and would be subject to the following requirements:

The site is subject to compatibility standards. Along the south and east property line, the following standards apply:

- No structure may be built within 25 feet of the property line.
- No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
- No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
- No parking or driveways are allowed within 25 feet of the property line.
- In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.

Additional design regulations will be enforced at the time a site plan is submitted.

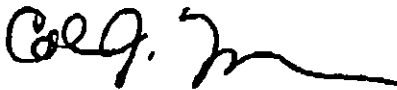
December 14, 2005

Rezoning Case Number: C14-05-0091, 1300 block of Dittmar Road

The Matthews Lane Neighborhood Association supports the developer's rezoning request for Lelah's Crossing on the condition that the four provisions in the attached 9/28/05 agreement are incorporated into the appropriate documents and implemented.

Please include this letter and the accompanying agreement in the file for this rezoning case.

Thank you,



Carol J. Moya
President, Matthews Lane Neighborhood Association

DATE: December 14, 2005

TO: Wendy Walsh

CC: Robert Kleeman

RE: Agreement between Matthews Lane Neighborhood Association and developer of Lelah's Crossing, Case C14-05-0091.

FROM: Carol Moya, President Matthews Lane Neighborhood Association, 658-1894

7 pages including this cover sheet.

**MUNSCH HARDT
KOPF & HARR PC**

ATTORNEYS & COUNSELORS
DALLAS | HOUSTON | AUSTIN

One American Center
800 Congress Avenue
Suite 2800
Austin, Texas 78701-3057
Main 512.391.8100
Fax 512.391.8148
Web munsch.com

Waller's Direct Dial: 512.391.8116
E-Mail: steve@munsch.com
Direct Fax: 512.452.4932

September 28, 2005

Ms. Carol Moya, President
Matthews Lane Neighborhood Assn.
7501 Elm Forest Road
Austin, TX 78745

Re: Zoning Case C14-05-0091; 42 Acres; Dittmar Road

Dear Ms. Moya:

Thank you for providing opportunities for communication on my client's zoning request and proposed development. To be clear, my client, Dittmar Properties, Ltd., proposes a 236 unit condominium project in which duplex structures will house two living units. No apartments or apartment looking buildings are proposed or desired.

This letter will confirm the actions my client will take to address concerns raised at my meetings with the Matthews Lane Neighborhood Association. My client is willing to do the following:

1. Limit access at the north side of the project to emergency vehicles only. My client has already proposed this to City staff. As you know, the City will ultimately make this decision; all my client can do is ask and advocate for the limitation.
2. The northern part of the development will be limited to persons 55 and older. This area is generally described as on top of the hill.
3. Strictly limit the number of units within the project that may be rented. Please see the copy of language we found in the Condominium Declaration for Cottage Courts on William Cannon. Cottage Courts is the same type of development that my client proposes here.
4. My client will construct a six foot tall wooden privacy fence along every property line shared with a single family lot on the east side of the rail road tracks.

If your neighborhood association is willing to support my client's zoning application and project, then my client will agree to conditional overlays or enter into restrictive covenants, as appropriate, to make the above listed limitations enforceable.

Ms. Carol Moya, President
September 26, 2005
Page 2

If you require additional information, please do not hesitate to contact me.

Sincerely,



Robert J. Kleeman

RJK:dlr
Enclosure

cc: John Kleas
Ron Thrower

- 12.8 Other Policies.** The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association.
- 12.9 Owner's Responsibility.** Each Owner must obtain and maintain the following insurance coverage:
- 12.9.1 Property Insurance.** Each Owner must obtain and maintain property insurance on the Unit in an amount sufficient to reconstruct the Unit in event of total destruction – specifically blanket all-risk insurance coverage. If blanket all-risk insurance is not reasonably available, then at a minimum, each Owner shall obtain an insurance policy providing fire and extended coverage in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard.
- 12.9.2 Liability Insurance.** With respect to his Unit, each Owner must obtain and maintain comprehensive general liability insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, Ownership, enjoyment and maintenance of the Unit.
- 12.9.3 Proof of Insurance.** Each Owner will provide the Association with proof of insurance required herein within 15 days of acquiring the Unit and at least once each year thereafter without request or demand by the Association and on request from the Association from time to time. If an Owner fails to provide the insurance or to maintain the required insurance to the satisfaction of the Board, the Board may obtain it on behalf of the Owner who will be obligated for the cost as an individual assessment.
- 12.9.4 Association Requirements.** Notwithstanding any of the foregoing, the Board may establish minimum insurance requirements, including types and minimum amounts of coverage to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners.

XIII.

LIMITATIONS ON UNIT LEASING

- 13.1 Restrictions on Leasing.** Leasing of Units is regulated by this Section and Article to protect the Owners' equity in the Property, to preserve the character of the Property as a residential community of predominantly Owner-occupied Units, to prevent the Property from assuming the character of a renter-occupied apartment complex, and to comply with eligibility requirements of Underwriting Lenders for mortgage financing.
- 13.1.1 Owner Occupancy.** For purposes of this Section, a Unit is considered "Owner occupied" if at least 1 resident of an occupied Unit is an Owner of the Unit or is related by blood, marriage, or adoption to an Owner of the Unit, or if the Unit is

vacant -- except that a Unit being offered for lease may not be considered "Owner occupied" even though the Unit is then-vacant or then-occupied by an Owner. In calculating occupancy, Units are counted uniformly regardless of size.

13.1.2 Notice Only. If at least 85 percent of the Units are Owner-occupied at the time a lease originates or renews, the Unit may not be leased without obtaining the Board's approval. However, the Owner of the leased Unit must give the Board written notice of the lease or renewal.

13.1.3 Board Approval Required. If fewer than 85 percent of the Units are Owner-occupied at the time a lease originates or renews, the lease must have the prior written approval of the Board. Under the following circumstances, the Board may approve an Owner's written application for occupancy by residents who are not Owners:

- A. Exception for High Ratios.** The Board may approve an Owner's application to lease the Unit for a stated period of time if the Unit was Owner-occupied for at least one year, and if, according to the Board's calculations, the percentage of Units in the Property that are Owner-occupied would not be less than 75 percent if the subject Unit were reenter-occupied.
- B. Exception for Undue Hardship.** The Board may approve an Owner's application to lease the Unit for a stated period of time to avoid undue hardship. By way of illustration and not limitation, examples of circumstances that may contribute to "undue hardship" are those in which (1) an Owner must relocate to another region when market conditions do not favor a timely sale for an amount exceeding the debt against the Unit; (2) the Unit is being administered by the deceased Owner's estate; (3) the Owner temporarily relocates and intends to return to occupy the Unit; (4) the Unit is to be leased to a member of the Owner's extended family. The Owner's application must state why this prohibition against leasing would result in undue hardship to the Owner, and describe the circumstances necessitating the leasing.
- C. Application and Approval.** The Board may allow reasonable leasing of a Unit on written application by an Owner who demonstrates, to the Board's satisfaction, that one of the two above exceptions applies. Approval by the Board must be in writing, and may not be deemed from lack of a response. The Board's approval may be limited to a stated period of time which, if not stated, is deemed to be one year from the date written approval is granted. On expiration of that period, the Owner must apply anew for Board approval. The Board's approval is not self-renewing.
- D. Violation of Prohibition.** A lease or lease renewal made without written approval of the Board is voidable by the Board. The Board has the power

to make and enforce reasonable rules and fines relating to enforcement of this Section.

- 13.2 Conditions of Lease.** In addition to the prior Section's restrictions on leasing, (a) no Unit may be rented for transient or hotel purposes or for a period of less than seven days; (b) no Unit may be subdivided for rent purposes, and not less than an entire Unit may be leased; (c) all leases must be in writing and must be made subject to the Governing Instruments; (d) an Owner is responsible for providing his tenant with copies of the Governing Instruments and notifying him of changes thereto; and (e) each tenant is subject to and must comply with all provisions of the Governing Instruments, federal and State laws, and local ordinances.
- 13.3 Eviction of Tenants.** Every lease agreement on a Unit, whether written or oral, express or implied, is subject to and is deemed to include the following provisions:
- 13.3.1 Violation Constitutes Default.** Failure by the tenant or his invitees to comply with the Governing Instruments, federal or State law, or local ordinance is deemed to be a default under the lease. When the Association notifies an Owner of his tenant's violation, the Owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or State law for the default, including eviction of the tenant, subject to the terms of this Section.
- 13.3.2 Association as Attorney-in-Fact.** Notwithstanding the absence of an express provision in the lease agreement for enforcement of the Governing Instruments by the Association, each Owner appoints the Association as his attorney-in-fact, with full authority to act in his place in all respects, solely for the purpose of enforcing the Governing Instruments against his tenants, including but not limited to the authority to institute forcible detainer proceedings against his tenant on his behalf, provided the Association gives the Owner at least 10 days' notice, by certified mail, of its intent to so enforce the Governing Instruments.
- 13.3.3 Association Not Liable for Damages.** The Owner of a leased Unit is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Governing Instruments against his tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Governing Instruments against the Owner's tenant.
- 13.4 Mortgagees and Declarant Exempt.** A mortgagee acquiring possession of or title to a Unit by exercise of its rights under a deed of trust is exempt from the effect of this Article. This exemption does not pass to the Mortgagee's successors and assigns. During the Development Period, Declarant is exempt from the effect of this Article.

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-05-0091

Contact: Wendy Walsh, (512) 974-7719

Public Hearing:

December 6, 2005 Zoning and Platting Commission

Eugene E Sutton

Your Name (please print)

1505 Dawson Austin TX 78745

Your address(es) affected by this application

Eugene E Sutton

Signature

11-28-05

Date

Comments: Zoning at NE-1 is not a
keeping with the nature of the
neighborhood. The sameness of
the housing will also detract
from the current heterogeneous housing.
Albert Deman, Sherwood, & Forestwood
are not capable of handling the
increased traffic.

Oak w/it is currently on this
property & has been allowed to spread &
degenerate the surrounding neighborhood

If you use this form to comment, it may be returned to:

City of Austin
Neighborhood Planning and Zoning Department
Wendy Walsh

P. O. Box 1088

Austin, TX 78767-8810

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-05-0091

Contact: Wendy Walsh, (512) 974-7719

Public Hearing:

December 6, 2005 Zoning and Platting Commission

Cynthia A. Jennings

Your Name (please print)

7404 Forest Wood Rd 78745

Your address(es) affected by this application

Cynthia A. Jennings

Signature

12/9/05

Date

Comments: There is too much traffic
going thru the neighborhood going
at a rate of 40 mph now - I fear
it will only increase - Most of the
people in this neighborhood are
retired and living on S.S. Maybe
if more law enforcement were
seen, the traffic would slow
down. Children can't ride their
bike safely in this area.

If you use this form to comment, it may be returned to:

City of Austin
Neighborhood Planning and Zoning Department
Wendy Walsh

P. O. Box 1088

Austin, TX 78767-8810

December 19, 2005

VIA E-MAIL

Chairman Betty Baker
Members of the Zoning & Platting Commission

Re: Postponement Request-C14-05-0091 and C14-85-055 (RCA)

Dear Chairman Baker and Members of the Zoning & Platting Commission:

On behalf of the adjacent property owner, Texas NeuroRehab Center, please accept this letter to serve as a postponement request for the above referenced cases, currently on your agenda for December 20, 2005. This is our first postponement request and we ask for a postponement to your February 7, 2006 meeting. In an effort to arrive at the most compatible land use situation possible, we are assisting our client in understanding how the proposed zoning and development permitted with that zoning could affect our hospital and medical office uses. In that regard, we need more time to fully assess the situation which may or may not result in suggested conditions regarding the requested zoning category.

Please contact me should you need more information regarding our request.

Very truly yours,



Annick Beaudet,
Land Development Coordinator

ab

cc: Wendy Walsh, Senior Planner, Neighborhood Planning & Zoning Department

AUS:2634714.1
53342.2

P E T I T I O N

Date: 1-20-06

File Number: C14-05-0091

Address of

Rezoning Request: 1300 W. Dittmar Lane

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code, which would zone the property to any classification other than G0.

This property was zoned General Office, GO, in 1985. Upon that re-zoning a very specific restriction was placed on the property through a Public Restrictive Covenant limiting the property to a Hospital (General) use and further provided that if the property is not used for that use, the property owner will not object to the filing of an application for re-zoning to RR, Rural Residence district zoning.

The property was bought by the current property owner with this restriction, and he is now seeking to change that restriction. We object for a variety of reasons, which we will address at the public hearing.

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

Signature

Printed Name

Address

W. H. Kellyman

Ed Perryman, PsyD

1106 W. Dittmer Rd.
AUSTIN TX 78745

Date: 1-20-06

Contact Name: Annick Beaudet
Phone Number: 512-703-5741

C14-05-0091

PSYCHIATRIC SOLUTIONS, INC.



UNANIMOUS WRITTEN CONSENT ACTION
OF THE GENERAL PARTNER OF
NEURO INSTITUTE OF AUSTIN, L.P.

November 15, 2004

Pursuant to the provisions of the limited partnership laws, the Certificate of Limited Partnership and Limited Partnership Agreement of Neuro Institute of Austin, L.P. (the "Company"), the General Partner of the Company hereby adopts, ratifies and approves the following resolutions by consent on behalf of the Company effective as of the date first above written:

BE IT RESOLVED that the sole member of the Company does hereby authorize the following individuals to negotiate, on terms and conditions that each may deem advisable, to execute the contract or contracts on behalf of the Corporation, and further each is hereby given the power and authority to do all things necessary to implement, maintain, amend, or renew the contract:

Ed Prettyman Chief Executive Officer of
Texas NeuroRehab Center,
Austin, Texas

Omar Correa Chief Financial Officer of
Texas NeuroRehab Center,
Austin, Texas

This action is hereby taken and approved by the undersigned, being the General Partner of the Company, and is effective as of the date first above written.

GENERAL PARTNER:

NEURO INSTITUTE OF AUSTIN, L.P.

STATE OF TENNESSEE

COUNTY OF WILLIAMSON

SUBSCRIBED and SWORN to
Before me this 23rd day of
November, 2004.

Notary Public

By: _____

Joey A. Jacobs,
President

P E T I T I O N

Date: 12-6-05

File Number: C14-05-0091

Address of

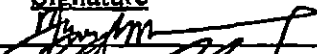

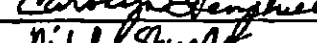

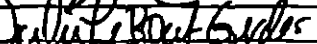




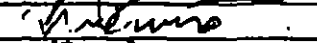

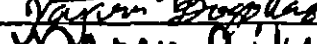

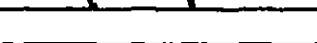
Rezoning Request: 1300 W. Dittmar

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than SP2 or lower density

(STATE REASONS FOR YOUR PROTEST)

(PLEASE USE BLACK INK WHEN SIGNING PETITION)

<u>Signature</u>	<u>Printed Name</u>	<u>Address</u>
	Troy Holland	1401 Wheatfall Ln.
	Shane Adams	8109 Dempsey Ln.
	Carolyn Hemphill	1313 W Dittmar Rd.
	Neil Slaughter	1146 Brecon Ln
	Noah Lee	1144 Brecon Ln
	Julie Gerdes	8005 Baxter Springs Rd.
	Paul Gerdes	8005 Baxter Springs Rd.
	Clara Torres	8009 Baxter Springs Rd.
	Adrian Holcomb	8015 Baxter Springs Rd.
	Juan Duran	8025 Baxter Springs Rd.
	Neil Everett	801 Baxter Springs Rd.
	Sunil Wijenayake	8109 Baxter Springs Rd.
	Vajira Bogollagama	8104 Baxter Springs Rd.
	Nancy Riley	1140 Brecon Ln

Date: 1-25-06

Contact Name: Carol Maya

Phone Number: 658-1894

PETITION

Case Number:

C14-05-0091

Date:

Jan. 25, 2008

Total Area within 200' of subject tract: (sq. ft.)

2,219,353.18

1	<u>04-2415-1523</u>	<u>EVERETTE NEIL W</u>	<u>8,352.18</u>	<u>0.38%</u>
2	<u>04-2415-1524</u>	<u>DURAN JUAN C &</u>	<u>8,283.49</u>	<u>0.37%</u>
		<u>ANITA</u>		
3	<u>04-2415-1525</u>	<u>HOLCOMB TIMOTHY</u>	<u>7,582.22</u>	<u>0.34%</u>
		<u>& ADRIANA</u>		
4	<u>04-2415-1527</u>	<u>ANDERSON BRIAN &</u>	<u>9,825.79</u>	<u>0.44%</u>
5	<u>04-2416-1528</u>	<u>THOMAS LUMLEY</u>	<u>8,311.72</u>	<u>0.37%</u>
		<u>TORRES CLARA</u>		
6	<u>04-2415-1529</u>	<u>GERDES PAUL &</u>	<u>8,309.51</u>	<u>0.37%</u>
		<u>JULIE</u>		
7	<u>04-2415-1601</u>	<u>NEURO INSTITUTE</u>	<u>751,790.47</u>	<u>33.87%</u>
		<u>OF AUSTIN L P</u>		
8	<u>04-2615-0801</u>	<u>HOLLAND TROY G</u>	<u>15,122.27</u>	<u>0.68%</u>
		<u>HEMPHILL CAROLYN</u>		
9	<u>04-2615-1023</u>	<u>DITTMAR</u>	<u>9,512.73</u>	<u>0.43%</u>
10	<u>04-2615-1027</u>	<u>RILEY NANCY M</u>	<u>7,490.27</u>	<u>0.34%</u>
		<u>LEE HOAH &</u>		
		<u>JENNIFER E PALMER-</u>		
11	<u>04-2615-1028</u>	<u>L</u>	<u>8,618.65</u>	<u>0.39%</u>
12	<u>04-2615-1029</u>	<u>SLAUGHTER NIEL</u>	<u>11,938.39</u>	<u>0.54%</u>
13				<u>0.00%</u>
14				<u>0.00%</u>
15				<u>0.00%</u>
16				<u>0.00%</u>
17				<u>0.00%</u>
18				<u>0.00%</u>
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25				<u>0.00%</u>

Validated By:

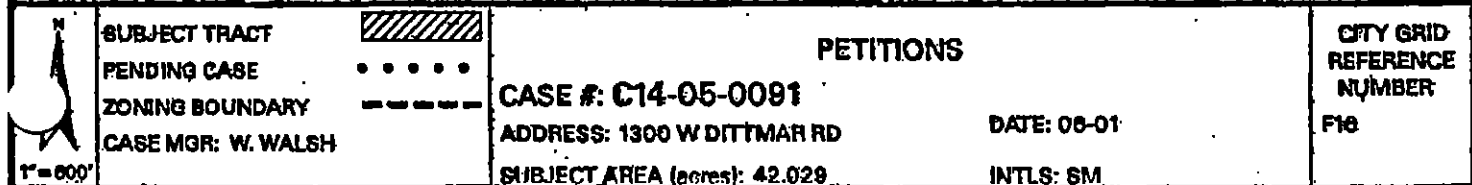
Stacy Meeks

Total Area of Petitioner:

855,124.68

Total %

38.53%



January 30, 2005

TO: Planning and Zoning Commission, Wendy Walsh

FROM: Carol Moya, President Matthews Lane Neighborhood Association

SUBJECT: Requested postponement on rezoning hearing, case C14-85-055,
1300 W. Dittmar, Leiah's Crossing

The Matthews Lane Neighborhood Association is requesting that the 1/31/06 hearing on this case be postponed to 3/21/06 for the following reasons:

- New information has come to our attention that we need to discuss as a neighborhood
- We also need to meet with adjacent property owners concerning this new information

Thank you,



Carol Moya
President, Matthews Lane Neighborhood Association

February 20, 2006

To: City of Austin City Council and City of Austin Zoning and Platting Commission

Rezoning Case Number: C14-05-0091, 1300 block of Dittmar Road

The Matthews Lane Neighborhood Association (MLNA) has reached an agreement with Dittmar Properties Ltd. and supports their rezoning request for Lelah's Crossing subject to 1) a private restrictive covenant agreement between the Matthews Lane Neighborhood Association and Dittmar Properties, Ltd., a copy of which is attached; and 2) the following conditional overlays on the 42 acre tract:

a) Limit access at the north side of the Property to i) emergency and evacuation vehicles entering and leaving the Property and the approximately 67.537 acre tract conveyed to Neuro Institute of Austin, L.P by a general warranty deed recorded in Document No. 2001186037; and ii) construction related vehicles for the construction of Infrastructure (driveways, the bridge across Boggy Creek, water and wastewater lines and drainage facilities on the Property). The north entrance may not be used as a construction entrance for construction related to buildings; and

b) Limit the density of living units to six units per acre and building height to twenty feet (20')

In addition, MLNA agrees that it will support variances that will allow Dittmar Properties, Ltd to construct a bridge across Boggy Creek so that the portion of the Property north of the creek may be accessed without using Albert Lane or Sherwood Road.

Please include this letter and the accompanying documents in the file for this rezoning case.

Thank you,



Carol J. Moya
President, Matthews Lane Neighborhood Association

Enclosed: Private Restrictive Covenant with Exhibits A and B.

RESTRICTIVE COVENANT

OWNER: Dittmar Properties, Ltd.

ADDRESS: 784 Oakdale Dr.
Austin, Texas 78745

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 42.029 acres of land out of the William Cannon League and being that same tract of land described in a Correction Deed recorded in Document No. 2004096555, Official Public Records Travis County, Texas and being more particularly described by metes and Bounds in the attached Exhibit A.

ZONING CASE: C14-05-0091

WHEREAS, the Owner of the Property has agreed to impress the Property with certain covenants and restrictions in conjunction with SF-6 zoning for the Property.

NOW THEREFORE, the Owner hereby declares that the Property shall be held, sold and conveyed subject to the following covenants and restrictions. These covenants and restrictions shall run with the land, and shall be binding on the Owner, his heirs, successors and assigns and on all the parties having any right, title or interest in or to the Property or any part thereof.

1. Owner will construct and maintain a six foot (6') tall wooden privacy fence along the northern and eastern property lines of the Property where the Property abuts land being used for a single family use ("Fence Property Line"). The privacy fence will be constructed in conjunction with the construction of a residential structures within the Property along the Fence Property Line. Notwithstanding the foregoing sentence, this paragraph is not intended and shall not be interpreted as applying to any property west or south of the Property or the approximately 67.537 acre tract conveyed to Neuro Institute of Austin, L.P by a general warranty deed recorded in Document No. 2001186037. No privacy fence is required along the rail road tracks on the west side of the Property.
2. The sale and occupation of residential units on the Property will be pursuant to a condominium regime to be recorded in the Official Public Records of Travis County, Texas ("Condominium Regime").
3. The Condominium Regime will limit the owners of living units in the northern portion of the Property, as further described in the attached Exhibit B, to people 55 years and older; provided, however, that no more than fifteen percent (15%) of the condominium units in the area described in the attached Exhibit B may be owned by persons younger than 55 years of age; provided, however, that the age limitation provision may contain an undue hardship provision as described in paragraph 4 below.

EXECUTED Private
RESTRICTIVE COVENANT
Matthews Lane N.A.

4. The Condominium Regime shall include language that requires the condominium community to be predominately Owner-occupied by requiring each owner of a condominium unit to notify the condominium board of each unit leased. The condominium regime shall generally limit the number of leased condominium units to not more than twenty-five percent (25%) of the total number of constructed condominium units within the Property. The Condominium board may grant exceptions to the limited number of units for lease if an undue hardship exists. The Condominium Regime document will contain the following language:

"The Board may approve an Owner's application to lease the Unit for a stated period of time to avoid undue hardship if the Unit was Owner-occupied for at least one year, and if, according to the Board's calculations, the percentage of units in the Property that are Owner-occupied would not be less than 75 percent if the subject Unit were renter-occupied. By way of illustration and not limitation, examples of circumstances that may contribute to "undue hardship" are those in which (1) an Owner must relocate to another region when market conditions do not favor a timely sale for an amount exceeding the debt against the Unit; (2) the Unit is being administered by the deceased Owner's estate; (3) the Owner temporarily relocates and intends to return to occupy the Unit; (4) the Unit is to be leased to a member of the Owner's extended family."

5. Owner will deliver to the Matthews Lane Neighborhood Association a copy of its site development permit application at the time that Owner files said application with the City of Austin. At least thirty (30) days prior to recording a Condominium Regime for the Property in the Official Public Records of Travis County, Texas, Owner will deliver a copy of the proposed Condominium Regime to the Matthews Lane Neighborhood Association.
6. Access from public streets on the north side of the Property shall be limited to i) emergency and evacuation vehicles entering and leaving the Property and the approximately 67.537 acre tract conveyed to Neuro Institute of Austin, L.P by a general warranty deed recorded in Document No. 2001186037; and ii) construction related vehicles for the construction of infrastructure (driveways, the bridge across Boggy Creek, water and wastewater lines and drainage facilities on the Property). The north entrance to the Property may not be used as a construction entrance for construction related to buildings. Owner shall construct a physical barrier with a lock that can be opened by emergency service personnel.
7. The failure to enforce any provision of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of these Restrictions.
8. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the owner of land within 200 feet of the Property to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

9. This restrictive covenant may be amended by an instrument signed by any owner of the Property and a duly authorized officer of the Matthews Lane Neighborhood Association; provided, that the instrument is recorded in the Official Public Records of Travis County, Texas. In the event that the Matthews Lane Neighborhood Association ceases to exist or function, then this restrictive covenant may be amended or terminated by a written instrument signed by the owners of sixty percent (60%) of the single family lots adjacent to the Property on the north and on the east side of the Property.
10. Notwithstanding any other provision of this instrument, this restrictive covenant is not intended and shall not be interpreted as giving any rights or expectations to the owners of any property west or south of the Property or the approximately 67.537 acre tract conveyed to Neuro Institute of Austin, L.P by a general warranty deed recorded in Document No. 2001186037.

EXECUTED this 28th day of February, 2006.

DITTMAR PROPERTIES, Ltd.

By: Dittmar Properties GP, Inc.

By: 

John R. Kleas, President of Dittmar
Properties GP, Inc.

ACKNOWLEDGMENT

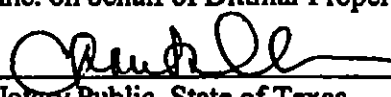
STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

This instrument was acknowledged before me on the 28th day of February, 2006, by John R. Kleas as president of Dittmar Properties GP, Inc. on behalf of Dittmar Properties, Ltd.




Notary Public, State of Texas
Printed Name Chantal McCabe
My Commission Expires: 5-19-2008

After recording, please return to:

Robert J. Kleeman
Munsch Hardt Kopf & Harr, P.C.
600 Congress Avenue, Suite 2900
Austin, Texas 78701

Exhibit A



Professional Land Surveying, Inc.
Surveying and Mapping

Office: 512-443-1724
Fax: 512-441-8987

2807 Manchaca Road
Building One
Austin, Texas 78704

42.029 ACRE TRACT WILLIAM CANNON LEAGUE

A DESCRIPTION OF 42.029 ACRES (1,830,771 S.F.) OF LAND OUT OF THE WILLIAM CANNON LEAGUE, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER OF A 110.09 ACRE TRACT CONVEYED TO HEALTHCARE REHABILITATION OF AUSTIN, INC., IN THE SPECIAL WARRANTY DEED EXECUTED JULY 24, 1997 OF RECORD IN VOLUME 12988, PAGE 661 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 42.029 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with cap set in the south line of the remainder of the 110.09 acre tract, being also in the west line of a 67.532 acre tract recorded in Document No. 2001186037, of the Official Public Records of Travis County, Texas, in the north line of West Dittmar Road (right-of-way width varies) and the north line of a 0.063 acre tract recorded in Document No. 2003043681 of the Official Public Records of Travis County, Texas, from which a 1/2" rebar with cap set bears South 01°58'30" East, a distance of 19.58 feet;

THENCE with the south line of the remainder of the 110.09 acre tract, the north line of West Dittmar Road and the north line of the 0.063 acre tract, the following five (5) courses:

1. South 86°28'28" West, a distance of 68.64 feet to a 1/2" rebar with cap set;
2. South 87°15'45" West, a distance of 147.84 feet to a 1/2" rebar found;
3. South 87°57'55" West, a distance of 600.72 feet to a 1/2" rebar found for the beginning of a curve to the left;
4. 28.36 feet along the arc of said curve to the left, having a radius of 1745.00, and through a central angle of 00°55'52", the chord of which bears South 87°27'37" West, a distance of 28.36 feet to a 1/2" rebar found;
5. South 87°01'41" West, a distance of 164.10 feet to a 1/2" rebar with cap set for the southwest corner of the remainder of the 110.09 acre tract, being also in the east line of a 14.85 acre tract recorded in Volume 3387, Page 2048 of the Deed Records of Travis County, Texas, the north line of West Dittmar Road, and the northwest corner of the 0.063 acre tract, from which a 1/2" rebar found bears South 00°24'58" East, a distance of 4.37 feet;

THENCE with the common line of the 110.09 acre tract and the 14.85 acre tract, the

Page 2

following two (2) courses:

1. North 00°09'16" West, a distance of 872.05 feet to a 1/2" rebar with cap found for an interior corner of the 110.09 acre tract, being also the northeast corner of the 14.85 acre tract;
2. South 87°19'00" West, a distance of 455.24 feet to a 1/2" rebar with cap found for a southwest corner of the 110.09 acre tract, being also the northwest corner of the 14.85 acre tract and in the southeast line of the Union Pacific Railroad (formerly the International-Great Northern Railroad)(100' right-of-way width);

THENCE North 29°28'41" East, along the northwest line of the 110.09 acre tract and the southeast right-of-way line of the Union Pacific Railroad, a distance of 2518.46 feet to a 1/2" iron pipe found for the northwest corner of the 110.09 acre tract, being also in the southeast right-of-way line of the Union Pacific Railroad and being the west corner of a 0.759 acre tract recorded in Volume 11191, Page 130, of the Real Property Records of Travis County, Texas;

THENCE leaving the southeast right-of-way line of the Union Pacific Railroad, South 60°30'00" East, along the common line of the 110.09 acre tract and the 0.759 acre tract, a distance of 147.94 feet to a 1" iron pipe found for a northeast corner of the 110.09 acre tract, being also in the south line of the 0.759 acre tract and in the northwest right-of-way line of Damon Road (50' right-of-way width)(cul-de-sac) for the beginning of a non-tangent curve to the left;

THENCE 141.60 feet along the arc of said curve to the left, having a radius of 45.07 feet, and through a central angle of 180°00'00", the chord of which bears South 26°53'17" East, a distance of 90.14 feet to a 1/2" rebar found for a northeast corner of the 110.09 acre tract, being also in the south right-of-way line of Damon Road (cul-de-sac) and the north corner of Lot 5, Damon Subdivision, a subdivision of record in Volume 6, page 31, Plat Records of Travis County, Texas;

THENCE leaving the south right-of-way line of Damon Road, along the common line of the 110.09 acre tract and the Damon Subdivision, for the following six (6) courses:

1. South 29°32'10" West, a distance of 325.01 feet to a 1/2" iron pipe found for an interior corner of the 110.09 acre tract;
2. North 87°52'02" East, a distance 113.24 feet to a 1" iron pipe found for an interior corner of the 110.09 acre tract;

Page 3

3. North 87°39'28" East, a distance of 169.69 feet to a 1/2" rebar found for an exterior corner of the 110.09 acre tract being also an interior corner of the Damon Subdivision;
4. South 77°18'08" East, a distance of 205.42 feet to a 1/2" rebar with cap set for the beginning of a non-tangent curve to the right;
5. 83.28 feet along the arc of said non-tangent curve to the right, having a radius of 90.12 feet, and through a central angle of 52°56'42", the chord of which bears North 02°49'00" East, a distance of 80.35 feet to a 1/2" rebar found;
6. North 29°49'29" East, a distance of 44.54 feet to a 1/2" rebar with cap set for a north corner of the 110.09 acre tract, being also in the southwest line of the Damon Subdivision, the intersecting point of the southwest line of Damon Road with the west line of Sherwood Road (50' right-of-way width) and the northwest corner of a "Street Deed" recorded in Volume 3234, Page 1934, of the Deed Records of Travis County, Texas, for the beginning of a non-tangent curve to the left;

THENCE with the common line of the 110.09 acre tract, Sherwood Road and the said "Street Deed", the following three (3) courses:

1. 159.13 feet along the arc of said non-tangent curve to the left, having a radius of 75.36 feet, and through a central angle of 120°59'03", the chord of which bears South 31°14'40" East, a distance of 131.17 feet to a 1/2" rebar found;
2. North 88°04'39" East, a distance of 75.42 feet to a 60d nail found;
3. North 87°21'59" East, a distance of 333.29 feet to a 5/8" Iron pipe found for the northeast corner of the 110.09 acre tract, being also in the south line of Sherwood Road, the southeast corner of the said "Street Deed" and the northwest corner of Brownleaf Estates, a subdivision of record in Volume 31, Page 48, Plat Records of Travis County, Texas;

THENCE leaving the south line of Sherwood Road, South 03°06'11" East, along the common line of the 110.09 acre tract and Brownleaf Estates, a distance of 250.00 feet to a 1/2" rebar with cap set in the east line of the 110.09 acre tract, being also in the west line of Brownleaf Estates and the northeast corner of a 67.532 acre tract recorded in Document No. 2001186037, of the Official Public Records of Travis County, Texas;

THENCE leaving the west line of Brownleaf Estates, over and across the 110.09 acre tract, with the north and west lines of the 67.532 acre tract, for the following 4 (four) courses:

Page 4

1. South 87°21'59" West, a distance of 1058.75 feet to a 1/2" rebar with cap set for the northwest corner of the 67.532 acre tract;
2. South 29°28'31" West, a distance of 633.18 feet to a 1/2" rebar with cap set;
3. South 14°21'26" West, a distance of 673.06 feet to a 1/2" rebar with cap set;
4. South 08°45'22" East, a distance of 327.26 feet to a calculated point in the approximate centerline of a creek;

THENCE with the approximate centerline of said creek the following five (5) courses and distances:

1. South 82°28'58" East, a distance of 143.88 feet to a calculated point;
2. South 71°55'49" East, a distance of 178.70 feet to a calculated point;
3. South 34°04'25" East, a distance of 65.09 feet to a calculated point;
4. South 64°29'26" East, a distance of 330.28 feet to a calculated point;
5. South 89°20'05" East, a distance of 41.49 feet to a calculated point;

THENCE departing the approximate centerline of said creek, South 01°58'30" East, a distance of 459.74 feet to the **POINT OF BEGINNING**, containing an area of 42.029 acres of land, more or less.

Surveyed on the ground in August 2003. Bearing basis is grid azimuth for Texas central zone, 1983/93 HARN values from LCRA control network.


David Klotz
Registered Professional Land Surveyor
State of Texas No. 5428

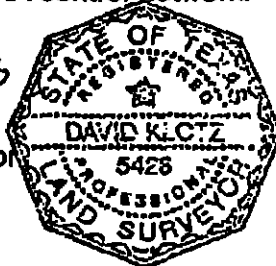
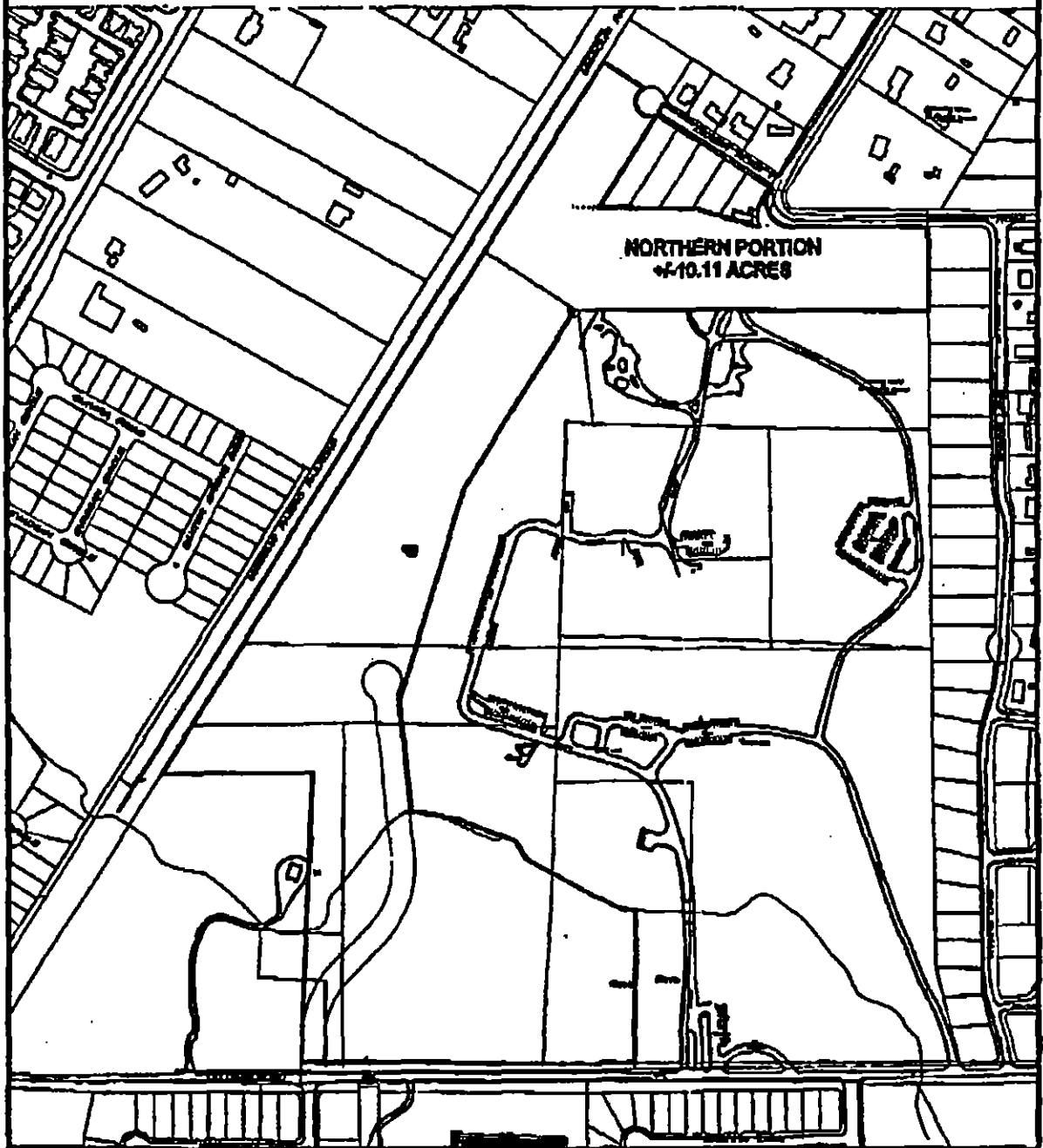


EXHIBIT B



DITTMAR PROPERTIES, LTD.

DITTMAR ROAD
AUSTIN, TEXAS

RESTRICTIVE COVENANT AND EMERGENCY ACCESS AGREEMENT

THAT, Dittmar Properties, LTD., a Texas limited partnership ("Dittmar") and Neuro Institute of Austin, L.P. d/b/a Texas NeuroRehab Center, a Texas limited partnership ("TNRC"), for and in consideration of the recitals set forth below and Ten and No/100ths Dollars (\$10.00) paid by each party to the other, the receipt and sufficiency of said consideration is hereby acknowledged by both parties, hereby agree to enter into this Restrictive Covenant and Emergency Access Agreement (also called "Agreement").

RECITALS

WHEREAS, Dittmar is the owner of 42.029 acres of land out of the William Cannon League and being that same tract of land described in a Correction Deed recorded in Document No. 2004096555, Official Public Records Travis County Texas, and being more particularly described by metes and bounds in the attached Exhibit "A" ("Dittmar Property");

WHEREAS, TNRC is the owner of a 67.537 acre tract of land conveyed to Neuro Institute of Austin, L.P., by a general warranty deed recorded in Document No. 2001186037, Official Public Records of Travis County, Texas ("TNRC Property");

WHEREAS, TNRC currently operates a psychiatric hospital and special hospital ("Hospital Facility"), as defined under Texas Law, on the TNRC Property;

WHEREAS, Dittmar has agreed to impress the Dittmar Property with certain covenants and restrictions in conjunction with a SF-6 zoning for the Dittmar Property in order to construct a condominium development with up to 236 units ("Project");

WHEREAS, Dittmar acknowledges and TNRC and Dittmar hereby notify all future owners of the Dittmar Property that TNRC may expand the Hospital Facility by adding one or more of the following: new special hospitals, psychiatric hospitals, enlarging existing TNRC hospital facilities, building new general hospitals as defined in Title 25, Chapter 133 of the Texas Administrative Code, or adding or expanding facilities to provide administrative support to the Hospital Facility, all of which may require change of the zoning of the TNRC Property and/or the issuance of a conditional use permits for uses on the TNRC Property;

WHEREAS, TNRC has agreed to impress the TNRC Property with certain covenants and restrictions to address potential compatibility concerns resulting from an expansion of the Hospital Facility near the Dittmar Property;

WHEREAS, Dittmar and TNRC desire to construct and maintain a barrier between the Dittmar Property and the TNRC Property; and

WHEREAS, TNRC has requested an emergency access easement across the Dittmar Property so as to have access to public streets in emergency situations;

*EXECUTED PRIVATE
RESTRICTIVE COVENANT
TEXAS NEURO REHAB CENTER*

NOW, THEREFORE, Dittmar and TNRC declare that their respective properties shall be held, sold and conveyed subject to the following covenants and restrictions, which covenants and restrictions shall run with the land, and shall be binding on Dittmar, TNRC and their respective successors and assigns and all parties having any right, title or interest in or to the Dittmar Property or the TNRC Property or any part thereof.

RESTRICTIVE COVENANT

1. Dittmar will construct a six-foot (6') tall wooden privacy fence (the "Fence") along the common property line between the Dittmar Property and the TNRC Property (the "Common Property Line"). The Fence shall be constructed in conjunction with the construction of residential structures within the Dittmar Property. The Fence shall be constructed of wood with a stone or masonry column constructed every seventy feet (70') only in the open areas along the Common Property Line. The term "open area" shall mean those areas described as "Open Areas" in the attached Exhibit "B". The Fence shall extend the entire Common Property Line only excepting those places where the Fence is prohibited by law or regulation. Dittmar will be solely responsible for the maintenance and repair of the Fence in perpetuity; provided, however, that Dittmar shall have no responsibility for repairing damages to the Fence caused by TNRC, its employees, contractors, or invitees or other people accessing the Fence on the TNRC Property, including cleaning or covering of any tagging on the TNRC Property side of the Fence. TNRC shall be responsible for repairing damages caused by TNRC, its employees, contractors, or invitees on the TNRC Property, including cleaning or covering of any tagging on the TNRC Property side of the Fence.
2. A twenty-five foot (25') vegetative set back (the "Dittmar Setback") is hereby created along the Common Property Line within the Dittmar Property. Within this Dittmar Setback, no buildings, no structures, and no concrete or asphalt surfaces shall be placed, constructed or maintained; provided, however, this restriction shall not prohibit the placement, construction, or maintenance of utilities, drainage facilities, water quality facilities or other facilities required to be constructed by the City of Austin or other governmental authority as a condition of approval or permission to construct or occupy the Project or to the Emergency Access and Evacuation Easement, as Emergency Access and Evacuation Easement is hereinafter defined. Notwithstanding the foregoing sentence, the Dittmar Setback may be used for the purpose of yards common to either the adjacent home or common areas of the Project which can include BBQ pits, swing sets (typical residential yard usage) and also other non-impervious improvements such as trails and landscaping.
3. The construction of any new buildings or structures within the TNRC Property shall comply with Article 10 of Chapter 25-2 of the City Code of Austin ("Compatibility Standards"), as amended from time to time. For purposes of determining compliance the Compatibility Standards, the Dittmar Property shall be deemed to have SF-5 (Urban Family Residence) zoning district designation.

4. Except as otherwise set forth herein, all construction and uses on the Dittmar Property shall comply with SF-6 (Townhouse and Condominium Residence) zoning district designation use regulations and development regulations.
5. No building or structure on the Dittmar Property may exceed twenty feet (20') in height.
6. There may be no more than two hundred thirty-six (236) residential dwelling units on the Dittmar Property.
7. If any person or entity shall violate or attempt to violate any provision hereof, it shall be lawful for the non-violating owner to prosecute proceedings at law or equity against such person or entity violating or attempting to violate these Restrictive Covenants, to prevent the person or entity from such actions, and to collect damages for such actions.
8. The failure to enforce any provision of the Restrictive Covenants at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of these Restrictive Covenants.

EMERGENCY ACCESS AND EVACUATION EASEMENT

9. Subject to the terms hereof, Dittmar hereby grants a non-exclusive right of vehicular ingress and egress to all police, fire protection, ambulance and other emergency vehicles and other service vehicles to enter upon and cross ("Emergency Access and Evacuation Easement"). The Emergency Access and Evacuation Easement as it exists upon the execution of this Agreement is in the area described by metes and bounds in Exhibit "C", attached hereto and made a part hereof for all purposes (the "Initial Emergency Access and Evacuation Easement") in the performance of their duties. Subject to the terms hereof, Dittmar hereby grants a non-exclusive right of vehicular ingress and egress to TNRC, its officers, directors, agents, employees, management personnel, patients, residents, invitees, and visitors to enter the Emergency Access and Evacuation Easement for the sole purpose of evacuating people from buildings located on the TNRC Property during emergency conditions. As used herein, "emergency condition" means such circumstances where either bodily harm or death could occur or is occurring due to explosion, fire, flooding, acts of war, acts of terror, or acts of God.
10. Dittmar shall have no responsibility or obligation to maintain, repair or replace any portion of the existing all-weather surface located within the Initial Emergency Access and Evacuation Easement; provided, however, Dittmar agrees to keep the Emergency Access and Evacuation Easement free and clear of vegetation, structures, and all other objects which could reasonably be expected to inhibit TNRC's use of the Emergency Access and Evacuation Easement.
11. Dittmar reserves the right to relocate the Emergency Access and Evacuation Easement in conjunction with the development of the Dittmar Property so long as the new location of the Emergency Access and Evacuation Easement provides a connection from a public street on the north property line of the Dittmar Property to an unobstructed location on the north property line of the TNRC Property. The width of the relocated Emergency Access and Evacuation Easement shall meet all City of Austin design criteria for

emergency service vehicular access typical for commercial developments as specified in Section 9.2.0 #11 of the City of Austin Transportation Criteria Manual.

12. In the event that Dittmar intends to relocate the Emergency Access and Evacuation Easement, Dittmar will provide TNRC a pictorial description of the proposed new location at the time that Dittmar files for a site development permit with the City of Austin to develop the land adjacent to or near the Emergency Access and Evacuation Easement. Dittmar will provide TNRC a metes and bounds description of the new location of the Emergency Access and Evacuation Easement at the time the City of Austin approves the site development permit. TNRC agrees that any relocated Emergency Access and Evacuation Easement need not consist of a paved driveway. Dittmar may not block, impede, or prevent TNRC's use of the Initial Emergency Access and Evacuation Easement described in Exhibit "C" until Dittmar has recorded in the Official Public Records of Travis County, Texas, a Notice of Relocated Emergency Access and Evacuation Easement that defines the location of the relocated Emergency Access and Evacuation Easement by metes and bounds and a survey plat. The Notice of Relocated Emergency Access and Evacuation Easement shall be enforceable by the owner of the TNRC Property and all successor owners of the TNRC Property. The Notice of Relocated Emergency Access and Evacuation Easement may, at Dittmar's sole discretion, include a termination of the Initial Emergency Access and Evacuation Easement. Dittmar shall provide TNRC at least forty-five (45) days advance written notice of Dittmar's intent to close the Initial Emergency Access and Evacuation Easement.
13. In the event that Dittmar relocates the Emergency Access and Evacuation Easement, TNRC will, at its sole expense and cost, permit and construct driveways within the TNRC Property to connect to the relocated Emergency Access and Evacuation Easement, and Dittmar shall have no liability or responsibility for any costs incurred by TNRC for permitting or constructing driveways or other structures within the TNRC Property necessary to connect to the relocated Emergency Access and Evacuation Easement.
14. TNRC shall be responsible for constructing a gate (the "Gate") on the Common Property Line at the location where the Emergency Access and Evacuation Easement intersects with the TNRC Property. The Gate shall be of a nature so as to prevent normal vehicular and pedestrian traffic between the Dittmar Property and the TNRC Property other than by emergency vehicles. The Gate will be constructed of materials identical to the fence that Dittmar will install along the Common Property Line. Alternatively, at the discretion of TNRC, the Gate will be constructed to be the same as the gate that Dittmar installs at the interface with the public right of way on the north side of the Dittmar Property ("Dittmar Gate"). In the event TNRC elects to construct the Gate to be the same as the Dittmar Gate, then the Gate will also have the same functionality as the Dittmar Gate, e.g., keypad access for emergency services, motorized, etc. TNRC will construct the Gate within forty-five (45) days of Dittmar constructing the fence described in Paragraph 1 above on both sides of the Emergency Access and Evacuation Easement along the Common Property Line. Until TNRC constructs the Gate described in this paragraph, Dittmar may install such barriers as it deems necessary to prevent vehicular and/or pedestrian traffic.

15. TNRC shall be solely responsible for providing electricity, maintaining, repairing and replacing the Gate. TNRC shall be solely responsible for managing the Gate so that the Gate is kept closed and locked and is used only in emergency situations. In addition to the rights and interests granted herein to TNRC in and to the Emergency Access and Evacuation Easement for emergency ingress and egress, Dittmar hereby grants to TNRC and its agents and contractors a limited license to enter the Dittmar Property for the sole purpose of initially constructing the Gate. The license area shall be limited to an area within twenty feet (20') of the Gate's location. TNRC may use this limited license only after providing Dittmar no less than three (3) business days and no more than ten (10) business days' advance written notice of TNRC's intent to enter the Dittmar Property pursuant to this limited license. TNRC shall, within three (3) business days of completing the initial construction of the Gate restore the Dittmar Property to its condition prior TNRC's construction of the Gate.
16. TNRC WILL INDEMNIFY, DEFEND AND HOLD HARMLESS DITTMAR, ITS AFFILIATES, OFFICERS, DIRECTORS, MANAGERS, MEMBERS, EMPLOYEES, AGENTS, ADVISORS AND REPRESENTATIVES, AND THEIR RESPECTIVE, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL DAMAGES, CLAIMS, SUITS, AWARDS, FINES, LOSSES (INCLUDING, WITHOUT LIMITATION, THIRD PARTY CLAIMS FOR PERSONAL INJURY, BODILY INJURY OR REAL OR PERSONAL PROPERTY DAMAGE), JUDGMENTS, ACTIONS, ADMINISTRATIVE PROCEEDINGS, PENALTIES, DEMANDS OR OTHER LIABILITY ARISING OUT OF OR, ALLEGED TO ARISE OUT OF, RELATING TO OR ALLEGED TO RELATE TO ANY CIRCUMSTANCE WHATEVER WITH RESPECT TO THE EMERGENCY ACCESS AND EVACUATION EASEMENT OR TNRC'S USE OF THE EMERGENCY ACCESS AND EVACUATION EASEMENT, INCLUDING, BUT NOT LIMITED TO, ANY BREACH OR VIOLATION OF THIS AGREEMENT, ANY LAWS, CODES OR ORDINANCES APPLICABLE TO THE EASEMENT OR LICENSED AREAS OR ANY OTHER VIOLATION OF ANY FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION BY TNRC OR ITS OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES, CONTRACTORS, CONSULTANTS ADVISORS, EMPLOYEES, GUESTS OR INVITEES, OR ANY ACT, OMISSION OR NEGLIGENCE OF TNRC, OR OF ITS OFFICERS, DIRECTORS, AGENTS, REPRESENTATIVES, CONTRACTORS, CONSULTANTS ADVISORS, EMPLOYEES, GUESTS OR INVITEES. The foregoing indemnification and other obligations of TNRC under this paragraph 16 will (i) not apply to the extent the damage, claim, loss or injury complained of arises out of or was caused by the negligence, gross negligence or willful misconduct of Dittmar, or its officers, directors, employees, agents, contractors, guests, or invitees.
17. In the event of a default under this Restrictive Covenant and Emergency Access Agreement, the non-defaulting party shall send a written notice of default to the defaulting party describing the nature and extent of the default. The defaulting party shall have thirty (30) days to cure said default. In the event that the defaulting party does cure the default within the thirty day cure period, the non-defaulting party may institute a legal and equitable action regarding said default.

18. Nothing in this Restrictive Covenant and Emergency Access Agreement shall be construed as requiring or permitting any person or entity to perform any act or omission that violates any local, state or federal law, regulation or requirement in effect at the time the act or omission would occur. Provisions in this Agreement which may require or permit such a violation shall yield to the law, regulation or requirement.
19. This Restrictive Covenant and Emergency Access Agreement shall not be subject to the doctrine of merger, even though the underlying fee ownership of the Property, or any parts thereof, is vested in one party or entity.
20. This Restrictive Covenant and Emergency Access Agreement is not intended to modify or alter and shall not be construed as modifying or altering any previously recorded easement or restrictive covenants affecting the Dittmar Property or the TNRC Property, and instead shall encumber the Dittmar Property and the TNRC Property in addition to said previously-recorded easements and restrictive covenants.
21. If any party retains an attorney to enforce this Agreement at law or in equity, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.
22. This Restrictive Covenant and Emergency Access Agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
23. This Restrictive Covenant and Emergency Access Agreement will be construed under the laws of the State of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Travis County, Texas.
24. It is not a waiver of or consent to default if the non-defaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Agreement does not preclude pursuit of other remedies in this Agreement or provided by law.
25. Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this Agreement and all transactions contemplated by this Agreement.
26. This Restrictive Covenant and Emergency Access Agreement contains the complete agreement of the parties regarding Dittmar's application to re-zone the Dittmar Property. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this Agreement. This Agreement may be amended or terminated by an instrument signed by both any owner of the Dittmar Property and the owner of the TNRC Property. In the event that the TNRC Property is subdivided, the right to amend this restrictive covenant shall run with that portion of the TNRC Property that directly abuts the Common Property Line.
27. If any provision in this Agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the

unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. This Agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

28. Any notice required or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein. The addresses of the parties for notice shall be as follows:

Dittmar:

Dittmar Properties, Ltd.
c/o Dittmar Properties, GP, Inc.
784 Oakdale Drive
Austin, Texas 78745

TNRC:

Neuro Institute of Austin, L.P
1106 West Dittmar Road
Austin, Texas 78745

Successors in Interest to Dittmar: The address for notice of the successors in interest to Dittmar shall be the address shown in the records of the Travis Central Appraisal District or any other tax appraisal district with jurisdiction over the property at the time notice is sent.

29. Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.
30. In consideration of the agreements set forth herein, TNRC shall, within seven days of the Effective Date of this Agreement issue to the City of Austin a letter in favor of the rezoning to the Property to SF-6 and the development on the Property of 236 residential units.

DITTMAR PROPERTIES, LTD.,
a Texas limited partnership

By: Dittmar Properties GP, Inc.,
a Texas corporation

By: 
John R. Kleas, President

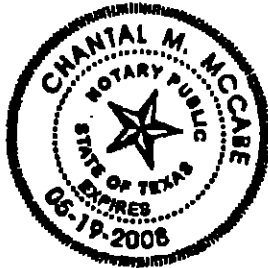
ACKNOWLEDGMENT

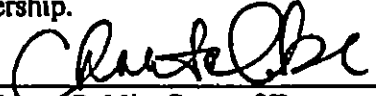
STATE OF TEXAS

§
§
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COUNTY OF TRAVIS

This instrument was acknowledged before me on the 29th day of March, 2006, by John R. Kleas in his capacity as President of Dittmar Properties GP, Inc., General Partner of Dittmar Properties, LTD. on behalf said limited partnership.




Notary Public, State of Texas

Printed Name Chantal McCabe

My Commission Expires: 5-19-2008

NEURO INSTITUTE OF AUSTIN, L.P.,
a Texas limited partnership,
D/B/A TEXAS NEUROREHAB CENTER

By: [Signature]
Printed Name: ED PERRYMAN, PhD
Title: CEO

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 3 day of April 2006, by ED Perryman PhD in his capacity as Chief Executive Officer of Neuro Institute of Austin, L.P. d/b/a Texas NeuroRehab Center, acting on behalf of said partnership and for the purposes herein expressed.



[Signature]
Notary Public, State of Texas
Printed Name: Paulette R. Grimes
My Commission Expires: 1-18-09

Exhibit A



Professional Land Surveying, Inc.
Surveying and Mapping

Office: 512-443-1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

**42.029 ACRE TRACT
WILLIAM CANNON LEAGUE**

A DESCRIPTION OF 42.029 ACRES (1,830,771 S.F.) OF LAND OUT OF THE WILLIAM CANNON LEAGUE, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER OF A 110.09 ACRE TRACT CONVEYED TO HEALTHCARE REHABILITATION OF AUSTIN, INC., IN THE SPECIAL WARRANTY DEED EXECUTED JULY 24, 1997 OF RECORD IN VOLUME 12988, PAGE 661 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 42.029 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with cap set in the south line of the remainder of the 110.09 acre tract, being also in the west line of a 67.532 acre tract recorded in Document No. 2001186037, of the Official Public Records of Travis County, Texas, in the north line of West Dittmar Road (right-of-way width varies) and the north line of a 0.063 acre tract recorded in Document No. 2003043681 of the Official Public Records of Travis County, Texas, from which a 1/2" rebar with cap set bears South 01°58'30" East, a distance of 19.58 feet;

THENCE with the south line of the remainder of the 110.09 acre tract, the north line of West Dittmar Road and the north line of the 0.063 acre tract, the following five (5) courses:

1. South 86°28'28" West, a distance of 68.64 feet to a 1/2" rebar with cap set;
2. South 87°15'45" West, a distance of 147.84 feet to a 1/2" rebar found;
3. South 87°57'55" West, a distance of 600.72 feet to a 1/2" rebar found for the beginning of a curve to the left;
4. 28.36 feet along the arc of said curve to the left, having a radius of 1745.00, and through a central angle of 00°55'52", the chord of which bears South 87°27'37" West, a distance of 28.36 feet to a 1/2" rebar found;
5. South 87°01'41" West, a distance of 164.10 feet to a 1/2" rebar with cap set for the southwest corner of the remainder of the 110.09 acre tract, being also in the east line of a 14.85 acre tract recorded in Volume 3387, Page 2048 of the Deed Records of Travis County, Texas, the north line of West Dittmar Road, and the northwest corner of the 0.063 acre tract, from which a 1/2" rebar found bears South 00°24'58" East, a distance of 4.37 feet;

THENCE with the common line of the 110.09 acre tract and the 14.85 acre tract, the

Page 2

following two (2) courses:

1. North 00°09'16" West, a distance of 872.05 feet to a 1/2" rebar with cap found for an interior corner of the 110.09 acre tract, being also the northeast corner of the 14.85 acre tract;
2. South 87°18'00" West, a distance of 455.24 feet to a 1/2" rebar with cap found for a southwest corner of the 110.09 acre tract, being also the northwest corner of the 14.85 acre tract and in the southeast line of the Union Pacific Railroad (formerly the International-Great Northern Railroad)(100' right-of-way width);

THENCE North 29°28'41" East, along the northwest line of the 110.09 acre tract and the southeast right-of-way line of the Union Pacific Railroad, a distance of 2518.46 feet to a 1/2" iron pipe found for the northwest corner of the 110.09 acre tract, being also in the southeast right-of-way line of the Union Pacific Railroad and being the west corner of a 0.759 acre tract recorded in Volume 11191, Page 130, of the Real Property Records of Travis County, Texas;

THENCE leaving the southeast right-of-way line of the Union Pacific Railroad, South 60°30'00" East, along the common line of the 110.09 acre tract and the 0.759 acre tract, a distance of 147.94 feet to a 1" iron pipe found for a northeast corner of the 110.09 acre tract, being also in the south line of the 0.759 acre tract and in the northwest right-of-way line of Damon Road (50' right-of-way width)(cul-de-sac) for the beginning of a non-tangent curve to the left;

THENCE 141.60 feet along the arc of said curve to the left, having a radius of 45.07 feet, and through a central angle of 180°00'00", the chord of which bears South 26°53'17" East, a distance of 90.14 feet to a 1/2" rebar found for a northeast corner of the 110.09 acre tract, being also in the south right-of-way line of Damon Road (cul-de-sac) and the north corner of Lot 5, Damon Subdivision, a subdivision of record in Volume 6, page 31, Plat Records of Travis County, Texas;

THENCE leaving the south right-of-way line of Damon Road, along the common line of the 110.09 acre tract and the Damon Subdivision, for the following six (6) courses:

1. South 29°32'10" West, a distance of 325.01 feet to a 1/2" iron pipe found for an interior corner of the 110.09 acre tract;
2. North 87°52'02" East, a distance 113.24 feet to a 1" iron pipe found for an interior corner of the 110.09 acre tract;

Page 3

3. North 87°39'28" East, a distance of 169.69 feet to a 1/2" rebar found for an exterior corner of the 110.09 acre tract being also an interior corner of the Damon Subdivision;
4. South 77°18'08" East, a distance of 205.42 feet to a 1/2" rebar with cap set for the beginning of a non-tangent curve to the right;
5. 83.28 feet along the arc of said non-tangent curve to the right, having a radius of 90.12 feet, and through a central angle of 52°56'42", the chord of which bears North 02°49'00" East, a distance of 80.35 feet to a 1/2" rebar found;
6. North 29°49'29" East, a distance of 44.54 feet to a 1/2" rebar with cap set for a north corner of the 110.09 acre tract, being also in the southwest line of the Damon Subdivision, the intersecting point of the southwest line of Damon Road with the west line of Sherwood Road (50' right-of-way width) and the northwest corner of a "Street Deed" recorded in Volume 3234, Page 1934, of the Deed Records of Travis County, Texas, for the beginning of a non-tangent curve to the left;

THENCE with the common line of the 110.09 acre tract, Sherwood Road and the said "Street Deed", the following three (3) courses:

1. 159.13 feet along the arc of said non-tangent curve to the left, having a radius of 75.36 feet, and through a central angle of 120°59'03", the chord of which bears South 31°14'40" East, a distance of 131.17 feet to a 1/2" rebar found;
2. North 88°04'39" East, a distance of 75.42 feet to a 60d nail found;
3. North 87°21'59" East, a distance of 333.29 feet to a 5/8" Iron pipe found for the northeast corner of the 110.09 acre tract, being also in the south line of Sherwood Road, the southeast corner of the said "Street Deed" and the northwest corner of Brownleaf Estates, a subdivision of record in Volume 31, Page 48, Plat Records of Travis County, Texas;

THENCE leaving the south line of Sherwood Road, South 03°06'11" East, along the common line of the 110.09 acre tract and Brownleaf Estates, a distance of 250.00 feet to a 1/2" rebar with cap set in the east line of the 110.09 acre tract, being also in the west line of Brownleaf Estates and the northeast corner of a 67.532 acre tract recorded in Document No. 2001186037, of the Official Public Records of Travis County, Texas;

THENCE leaving the west line of Brownleaf Estates, over and across the 110.09 acre tract, with the north and west lines of the 67.532 acre tract, for the following 4 (four) courses:

Page 4

1. South 87°21'59" West, a distance of 1058.75 feet to a 1/2" rebar with cap set for the northwest corner of the 67.532 acre tract;
2. South 29°28'31" West, a distance of 633.18 feet to a 1/2" rebar with cap set;
3. South 14°21'26" West, a distance of 673.06 feet to a 1/2" rebar with cap set;
4. South 08°45'22" East, a distance of 327.26 feet to a calculated point in the approximate centerline of a creek;

THENCE with the approximate centerline of said creek the following five (5) courses and distances:

1. South 82°28'58" East, a distance of 143.88 feet to a calculated point;
2. South 71°55'49" East, a distance of 178.70 feet to a calculated point;
3. South 34°04'25" East, a distance of 65.09 feet to a calculated point;
4. South 64°29'26" East, a distance of 330.28 feet to a calculated point;
5. South 89°20'05" East, a distance of 41.49 feet to a calculated point;

THENCE departing the approximate centerline of said creek, South 01°58'30" East, a distance of 459.74 feet to the POINT OF BEGINNING, containing an area of 42.029 acres of land, more or less.

Surveyed on the ground in August 2003. Bearing basis is grid azimuth for Texas central zone, 1983/93 HARN values from LCRA control network.

 05/05/05
David Klotz

Registered Professional Land Surveyor
State of Texas No. 5428

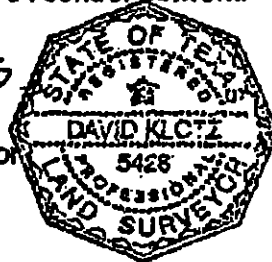
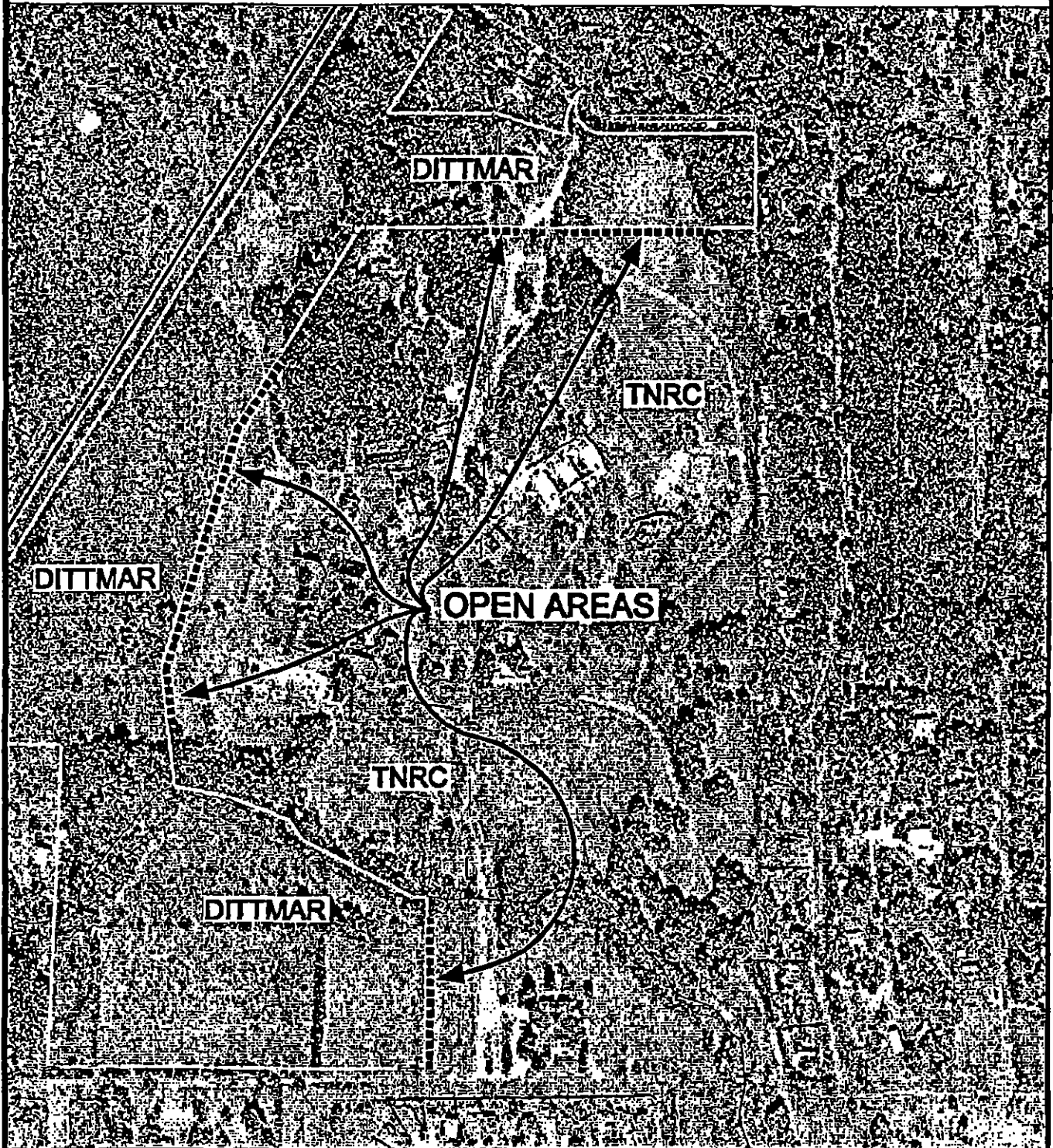


Exhibit B

EXHIBIT "B"



The Fence will be built along the entire Common Property Line except where prohibited by law as described in Paragraph 1 of the Agreement. The stone columns, however, will only be in the "Open Areas" shown in dotted lines above.

Exhibit C



**Professional Land Surveying, Inc.
Surveying and Mapping**

Office: 512-443-1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

**0.192 ACRE
ACCESS EASEMENT
DITTMAR PROPERTIES, LTD.**

A DESCRIPTION OF 0.192 ACRES (APPROXIMATELY 8,368 S.F.) OF LAND OUT OF THE WILLIAM CANNON LEAGUE, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THE 42.029 ACRE TRACT CONVEYED TO DITTMAR PROPERTIES, INC., BY SPECIAL WARRANTY DEED EXECUTED OCTOBER 10, 2003 OF RECORD IN DOCUMENT NO. 2003244137, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.192 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point in the north line of the 42.029 acre tract, being also in the south right-of-way line of Sherwood Road (50' right-of-way width) for the beginning of a non-tangent curve to the left, from which a 1/2" rebar with cap set bears on a chord North 13°13'48" East, a distance of 41.59 feet;

THENCE with the common line of the 42.029 acre tract, and Albert Lane, 49.75 feet along the arc of said curve to the left, having a radius of 75.36 feet, and through a central angle of 37°49'36", the chord of which bears South 21°42'05" East, a distance of 48.85 feet to a calculated point, from which a 1/2" rebar with cap set bears on a chord South 66°10'32" East, a distance of 65.03 feet;

THENCE leaving the south right of way line of Albert Lane, over and across the 42.029 acre tract, the following three (3) courses:


1. South 02°35'10" West, a distance of 17.02 feet to a calculated point for the beginning of a curve to the right;
2. 254.71 feet along the arc of said curve to the right, having a radius of 425.00 feet, and through a central angle of 34°20'16", the chord of which bears South 19°45'18" West, a distance of 250.91 feet to a calculated point;
3. South 36°55'26" West, a distance of 40.15 feet to a calculated point in a south line of the 42.029 acre tract, being also in the north line of a 67.532 acre tract recorded in Document No. 2001186037, of the Official Public Records of Travis County, Texas, from which a 1/2" rebar with cap set bears North 87°21'59" East, a distance of 591.65 feet;

THENCE South 87°21'59" West, along the common line of the 42.029 acre tract and the 67.532 acre tract, a distance of 32.43 feet to a calculated point, from which a 1/2" rebar with cap set bears South 87°21'59" West, a distance of 434.67 feet;

THENCE leaving the north line of the 67.532 acre tract, over and across the 42.029 acre tract, the following four (4) courses:

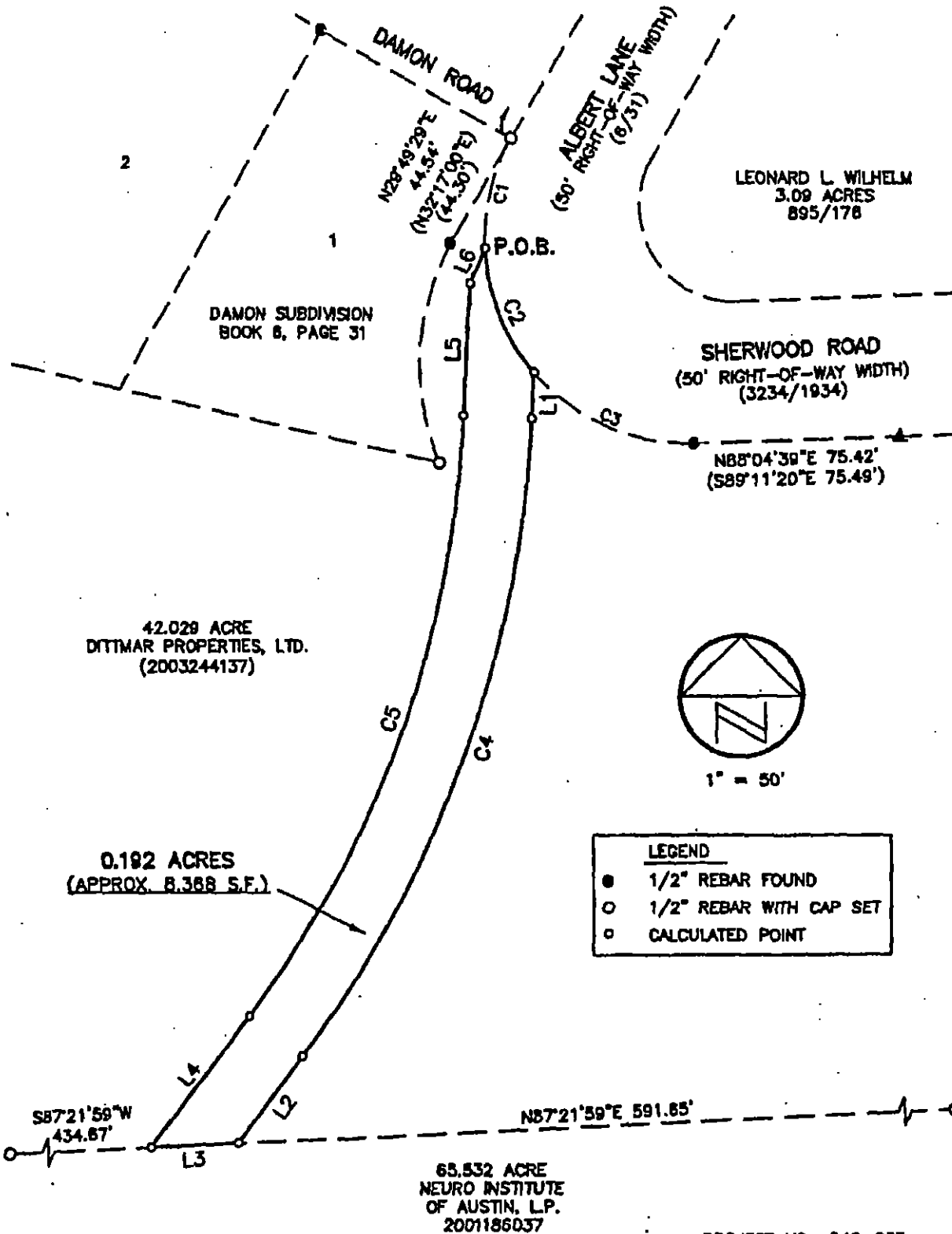
1. North $36^{\circ}55'26''$ East, a distance of 60.80 feet to a calculated point for the beginning of a curve to the left;
2. 239.72 feet along the arc of said curve to the left, having a radius of 400.00 feet, and through a central angle of $34^{\circ}20'16''$, the chord of which bears North $19^{\circ}45'18''$ East, a distance of 236.15 feet to a calculated point;
3. North $02^{\circ}35'10''$ East, a distance of 48.46 feet to a point;
4. North $23^{\circ}07'44''$ East, a distance of 13.98 feet to the **POINT OF BEGINNING**, containing an area of 0.192 acres of land, more or less.

Surveyed on the ground in August 2003. Bearing basis is grid azimuth for Texas central zone, 1983/93 HARN values from LCRA control network. Attachments: Survey Drawing 040-033-AE.dwg



David Klotz
Registered Professional Land Surveyor
State of Texas No. 5428





Chaparral

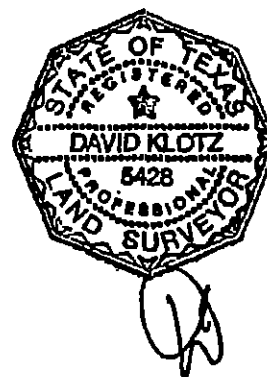
PROJECT NO.: 040-033
 DRAWING NO.: 040-033-AE
 DATE OF SURVEY: AUGUST 2003
 PLOT DATE: 03/22/08
 SHEET 1 OF 2

A SKETCH TO ACCOMPANY A DESCRIPTION OF 0.192 ACRES (APPROXIMATELY 8,368 S.F.) OF LAND OUT OF THE WILLIAM CANNON LEAGUE, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THE 42.029 ACRES CONVEYED TO DITTMAR PROPERTIES, LTD., BY SPECIAL WARRANTY DEED, DATED OCTOBER 10, 2003, RECORDED IN DOCUMENT NO. 2003244137 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

SCALE IN FEET



LINE TABLE		
No.	BEARING	LENGTH
L1	S02°35'10"W	17.02'
L2	S36°55'26"W	40.15'
L3	S87°21'59"W	32.43'
L4	N36°55'26"E	60.80'
L5	N02°35'10"E	48.46'
L6	N23°07'44"E	13.98'



CURVE TABLE						
NO.	DELTA	RADIUS	TAN	ARC	CHORD	BEARING
C1	32°02'09"	75.36'	21.83'	42.14'	41.59'	N13°13'48"E
C2	37°49'38"	75.36'	25.82'	49.75'	48.85'	S21°42'05"E
C3	51°07'18"	75.36'	36.04'	67.24'	65.03'	S66°10'32"E
C4	34°20'16"	425.00'	131.31'	254.71'	250.91'	S19°45'18"W
C5	34°20'16"	400.00'	123.58'	239.72'	236.15'	N19°45'18"E

PROJECT NO.: 040-033
DRAWING NO.: 040-033-AE
DATE OF SURVEY: AUGUST 2003
PLOT DATE: 03/22/08
SHEET 2 OF 2

Chaparral

BEARING BASIS: GRID AZIMUTH FOR TEXAS CENTRAL ZONE, 1983/93 HARN VALUES FROM LCRA CONTROL NETWORK.

ATTACHMENTS: METES AND BOUNDS DESCRIPTION 040-033-AE.DOC

DISCUSSION AND ACTION ON ZONING CASES

4. **Rezoning:** C14-05-0091 - Lelah's Crossing
Location: 1300 West Dittmar Road, South Boggy Creek Watershed
Owner/Applicant: Dittmar Properties, Ltd. (John Kleas)
Agent: Thrower Design (Ron Thrower)
Request: DR; GO to MF-1
Staff Rec.: RECOMMENDATION OF SF-6-CO WITH CONDITIONS.
Staff: Wendy Walsh, 974-7719, wendy.walsh@ci.austin.tx.us
Neighborhood Planning and Zoning Department

APPROVED STAFF'S RECOMMENDATION OF SF-6-CO DISTRICT ZONING, WITH A RESTRICTIVE COVENANT FOR THE NEIGHBORHOOD TRAFFIC ANALYSIS AS RECOMMENDED BY STAFF; WITH ADDITIONAL CONDITIONS OF LIMITING DENSITY TO 6 UNITS PER ACRE AND BUILDING HEIGHT TO 20-FEET. [M.HAWTHORNE, J.MARTINEZ 2ND] (8-0) T.RABAGO – LEFT EARLY

NOTE: THE NEIGHBORHOOD ASSOCIATION, ADJACENT PROPERTY OWNER AND APPLICANT AGREED THAT THE CASE WOULD NOT BE SCHEDULED FOR COUNCIL CONSIDERATION UNTIL THE PRIVATE RESTRICTIVE COVENANTS ARE SIGNED.

SUMMARY

Wendy Walsh, staff, stated that the applicant, neighborhood and adjacent property owner have agreed to a conditional overlay and all parties are in agreement.

Commissioner Baker – The neighborhood and applicant were asked to negotiate some way; can we hear from them and see how far apart they are and then we'll come back to you, please.

Ms. Walsh – That's fine, but I did want you to know that staff, applicant, neighborhood and the adjacent property owner are now in agreement with the addition of two conditional overlays. Those conditional overlays are limiting Sherwood Road to a secondary vehicular access point, prohibiting access to Damon Road (cul-de-sac on north side); limited to 2,000 trips per day; and two additional conditional overlays as agreed to between the parties is limiting the density to 6 units per acre and a building height to 20-feet. There is also a private restrictive covenant regarding future development, emergency access; those are with the Matthews Lane Neighborhood Association and I believe the adjacent property owner. They can discuss those with you, if you wish. There's a neighborhood traffic analysis that is part of the staff recommendation; the applicant is in agreement with that with those conditions. We have the restrictive covenant amendment, which is Item #5 and that is amend the covenant to remove the hospital use.

Commissioner Baker – And they all agree?

Ms. Walsh – Yes.

Commissioner Jackson – I do want to make sure that they are all in agreement with the restrictive covenant and I do want to hear that there is a deal, on the record.

Commissioner Baker – We don't want to know what the deal is; but do you agree to it?

Nikelle Meade, representing the adjacent property owner – It's a lengthy agreement and it is not yet signed, just because we were finalizing it 15 minutes ago; but we do have that and have given it to staff and we'd like to have the Commission to vote tonight, subject to getting that finalized before Council. We even have a copy for staff to have in the record; but we are all in agreement and there's a separate agreement with the neighborhood association and I think they want to handle that agreement the same way.

Carolyn Moya, President of the Matthews Lane Neighborhood Association – Yes, we came into an agreement with the developer and we've filed the appropriate paper work with Wendy; so we are supporting their application.

Commissioner Baker – I have an idea; we are obviously going to approve this with the conditional overlays and whatever agreements; but this will not be scheduled for Council until the restrictive covenants are signed; all agree?

Inaudible – We agree.

Commissioner Hawthorne and Martinez moved to close the public hearing for items #4 and #5.

Commissioner Hawthorne – I'll make a motion to approve staff recommendation on Item #4 as read into the record by Wendy; that would include the density, TIA etc.

Commissioner Martinez – Second.

Commissioner Jackson – Also, that the private covenant will be signed before it goes to Council?

Commissioner Hawthorne – Yes, that's correct.

Motion carried. (8-0) T. Rabago – left early

For Item #5

Commissioner Hawthorne – I approve staff's recommendation.

Commissioner Martinez – Second.

Motion carried. (8-0) T. Rabago – left early

ORDINANCE NO. _____

1 AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE
2 PROPERTY LOCATED AT 1300 WEST DITTMAR ROAD FROM
3 DEVELOPMENT RESERVE (DR) DISTRICT TO TOWNHOUSE AND
4 CONDOMINIUM RESIDENCE-CONDITIONAL OVERLAY (SF-6-CO)
5 COMBINING DISTRICT.
6

7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:
8

9 PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to
10 change the base district from development reserve (DR) district to townhouse and
11 condominium residence-conditional overlay (SF-6-CO) combining district on the property
12 described in Zoning Case No. C14-05-0091, on file at the Neighborhood Planning and
13 Zoning Department, as follows:
14

15 A 42.029 acre tract of land, more or less, out of the William Cannon League, in
16 Travis County, the tract of land being more particularly described by metes and
17 bounds in Exhibit "A" incorporated into this ordinance (the "Property"),
18

19 locally known as 1300 West Dittmar Road, in the City of Austin, Travis County, Texas,
20 and generally identified in the map attached as Exhibit "B".
21

22 PART 2. The Property within the boundaries of the conditional overlay combining district
23 established by this ordinance is subject to the following conditions:
24

- 25 1. Development of the Property may not exceed 252 dwelling units.
- 26 2. Development of the Property may not exceed 6 dwelling units per acre.
- 27 3. The maximum height of a building or structure on the Property is 20 feet from ground
28 level.
- 29 4. Except as provided in Subsection 5 of this Part 2, vehicular access from the Property
30 to Damon Road and Sherwood Road is prohibited. All vehicular access to the
31 Property shall be from other adjacent public streets or through other adjacent property.
- 32 5. Vehicular access from the Property to Sherwood Road shall function as a secondary
33 access point only.
34
35
36
37

6. A site plan or building permit for the Property may not be approved, released or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the townhouse and condominium residence (SF-6) base district and other applicable requirements of the City Code.

PART 3. This ordinance takes effect on _____, 2006.

PASSED AND APPROVED

_____, 2006 §
 §
 § Will Wynn
 Mayor

APPROVED: _____ **ATTEST:** _____
 David Allan Smith Shirley A. Gentry
 City Attorney City Clerk



Professional Land Surveying, Inc.
Surveying and Mapping

EXHIBIT A

C14-05-0091

Office: 512-443-1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

**42.029 ACRE TRACT
WILLIAM CANNON LEAGUE**

A DESCRIPTION OF 42.029 ACRES (1,830,771 S.F.) OF LAND OUT OF THE WILLIAM CANNON LEAGUE, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER OF A 110.09 ACRE TRACT CONVEYED TO HEALTHCARE REHABILITATION OF AUSTIN, INC., IN THE SPECIAL WARRANTY DEED EXECUTED JULY 24, 1997 OF RECORD IN VOLUME 12988, PAGE 661 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 42.029 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with cap set in the south line of the remainder of the 110.09 acre tract, being also in the west line of a 67.532 acre tract recorded in Document No. 2001186037, of the Official Public Records of Travis County, Texas, in the north line of West Dittmar Road (right-of-way width varies) and the north line of a 0.063 acre tract recorded in Document No. 2003043681 of the Official Public Records of Travis County, Texas, from which a 1/2" rebar with cap set bears South 01°58'30" East, a distance of 19.58 feet;

THENCE with the south line of the remainder of the 110.09 acre tract, the north line of West Dittmar Road and the north line of the 0.063 acre tract, the following five (5) courses:

1. South 86°28'28" West, a distance of 68.64 feet to a 1/2" rebar with cap set;
2. South 87°15'45" West, a distance of 147.84 feet to a 1/2" rebar found;
3. South 87°57'55" West, a distance of 600.72 feet to a 1/2" rebar found for the beginning of a curve to the left;
4. 28.36 feet along the arc of said curve to the left, having a radius of 1745.00, and through a central angle of 00°55'52", the chord of which bears South 87°27'37" West, a distance of 28.36 feet to a 1/2" rebar found;
5. South 87°01'41" West, a distance of 164.10 feet to a 1/2" rebar with cap set for the southwest corner of the remainder of the 110.09 acre tract, being also in the east line of a 14.85 acre tract recorded in Volume 3387, Page 2048 of the Deed Records of Travis County, Texas, the north line of West Dittmar Road, and the northwest corner of the 0.063 acre tract, from which a 1/2" rebar found bears South 00°24'58" East, a distance of 4.37 feet;

THENCE with the common line of the 110.09 acre tract and the 14.85 acre tract, the

following two (2) courses:

1. North $00^{\circ}09'16''$ West, a distance of 872.05 feet to a $1/2''$ rebar with cap found for an interior corner of the 110.09 acre tract, being also the northeast corner of the 14.85 acre tract;
2. South $87^{\circ}19'00''$ West, a distance of 455.24 feet to a $1/2''$ rebar with cap found for a southwest corner of the 110.09 acre tract, being also the northwest corner of the 14.85 acre tract and in the southeast line of the Union Pacific Railroad (formerly the International-Great Northern Railroad)(100' right-of-way width);

THENCE North $29^{\circ}28'41''$ East, along the northwest line of the 110.09 acre tract and the southeast right-of-way line of the Union Pacific Railroad, a distance of 2518.46 feet to a $1/2''$ iron pipe found for the northwest corner of the 110.09 acre tract, being also in the southeast right-of-way line of the Union Pacific Railroad and being the west corner of a 0.759 acre tract recorded in Volume 11191, Page 130, of the Real Property Records of Travis County, Texas;

THENCE leaving the southeast right-of-way line of the Union Pacific Railroad, South $60^{\circ}30'00''$ East, along the common line of the 110.09 acre tract and the 0.759 acre tract, a distance of 147.94 feet to a $1''$ iron pipe found for a northeast corner of the 110.09 acre tract, being also in the south line of the 0.759 acre tract and in the northwest right-of-way line of Damon Road (50' right-of-way width)(cul-de-sac) for the beginning of a non-tangent curve to the left;

THENCE 141.60 feet along the arc of said curve to the left, having a radius of 45.07 feet, and through a central angle of $180^{\circ}00'00''$, the chord of which bears South $26^{\circ}53'17''$ East, a distance of 90.14 feet to a $1/2''$ rebar found for a northeast corner of the 110.09 acre tract, being also in the south right-of-way line of Damon Road (cul-de-sac) and the north corner of Lot 5, Damon Subdivision, a subdivision of record in Volume 6, page 31, Plat Records of Travis County, Texas;

THENCE leaving the south right-of-way line of Damon Road, along the common line of the 110.09 acre tract and the Damon Subdivision, for the following six (6) courses:

1. South $29^{\circ}32'10''$ West, a distance of 325.01 feet to a $1/2''$ iron pipe found for an interior corner of the 110.09 acre tract;
2. North $87^{\circ}52'02''$ East, a distance 113.24 feet to a $1''$ iron pipe found for an interior corner of the 110.09 acre tract;

3. North 87°39'28" East, a distance of 169.69 feet to a 1/2" rebar found for an exterior corner of the 110.09 acre tract being also an interior corner of the Damon Subdivision;
4. South 77°18'08" East, a distance of 205.42 feet to a 1/2" rebar with cap set for the beginning of a non-tangent curve to the right;
5. 83.28 feet along the arc of said non-tangent curve to the right, having a radius of 90.12 feet, and through a central angle of 52°56'42", the chord of which bears North 02°49'00" East, a distance of 80.35 feet to a 1/2" rebar found;
6. North 29°49'29" East, a distance of 44.54 feet to a 1/2" rebar with cap set for a north corner of the 110.09 acre tract, being also in the southwest line of the Damon Subdivision, the intersecting point of the southwest line of Damon Road with the west line of Sherwood Road (50' right-of-way width) and the northwest corner of a "Street Deed" recorded in Volume 3234, Page 1934, of the Deed Records of Travis County, Texas, for the beginning of a non-tangent curve to the left;

THENCE with the common line of the 110.09 acre tract, Sherwood Road and the said "Street Deed", the following three (3) courses:

1. 159.13 feet along the arc of said non-tangent curve to the left, having a radius of 75.36 feet, and through a central angle of 120°59'03", the chord of which bears South 31°14'40" East, a distance of 131.17 feet to a 1/2" rebar found;
2. North 88°04'39" East, a distance of 75.42 feet to a 60d nail found;
3. North 87°21'59" East, a distance of 333.29 feet to a 5/8" iron pipe found for the northeast corner of the 110.09 acre tract, being also in the south line of Sherwood Road, the southeast corner of the said "Street Deed" and the northwest corner of Brownleaf Estates, a subdivision of record in Volume 31, Page 48, Plat Records of Travis County, Texas;

THENCE leaving the south line of Sherwood Road, South 03°06'11" East, along the common line of the 110.09 acre tract and Brownleaf Estates, a distance of 250.00 feet to a 1/2" rebar with cap set in the east line of the 110.09 acre tract, being also in the west line of Brownleaf Estates and the northeast corner of a 67.532 acre tract recorded in Document No. 2001186037, of the Official Public Records of Travis County, Texas;

THENCE leaving the west line of Brownleaf Estates, over and across the 110.09 acre tract, with the north and west lines of the 67.532 acre tract, for the following 4 (four) courses:

1. South 87°21'59" West, a distance of 1058.75 feet to a 1/2" rebar with cap set for the northwest corner of the 67.532 acre tract;
2. South 29°28'31" West, a distance of 633.18 feet to a 1/2" rebar with cap set;
3. South 14°21'26" West, a distance of 673.06 feet to a 1/2" rebar with cap set;
4. South 08°45'22" East, a distance of 327.26 feet to a calculated point in the approximate centerline of a creek;

THENCE with the approximate centerline of said creek the following five (5) courses and distances:

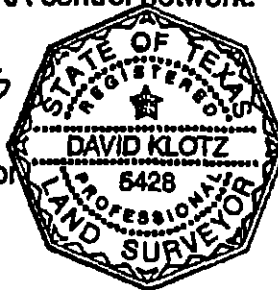
1. South 82°28'58" East, a distance of 143.88 feet to a calculated point;
2. South 71°55'49" East, a distance of 178.70 feet to a calculated point;
3. South 34°04'25" East, a distance of 65.09 feet to a calculated point;
4. South 64°29'26" East, a distance of 330.28 feet to a calculated point;
5. South 89°20'05" East, a distance of 41.49 feet to a calculated point;

THENCE departing the approximate centerline of said creek, South 01°58'30" East, a distance of 459.74 feet to the **POINT OF BEGINNING**, containing an area of 42.029 acres of land, more or less.

Surveyed on the ground in August 2003. Bearing basis is grid azimuth for Texas central zone, 1983/93 HARN values from LCRA control network.


David Klotz

Registered Professional Land Surveyor
State of Texas No. 5428





	SUBJECT TRACT	<h2 style="text-align: center;">ZONING EXHIBIT B</h2>		CITY GRID REFERENCE NUMBER F16
	PENDING CASE			
	ZONING BOUNDARY	CASE #: C14-05-0091	DATE: 05-07	
	CASE MGR: W. WALSH	ADDRESS: 1300 W DITTMAR RD	INTLS: SM	
SUBJECT AREA (acres): 42.029				

RESTRICTIVE COVENANT

OWNER: Dittmar Properties, LP, a Texas limited partnership

ADDRESS: 784 Oakdale Drive, Austin, Texas 78745

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 42.029 acre tract of land, more or less, out of the William Carmon League, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Development on the Property is subject to the recommendations contained in the Neighborhood Traffic Analysis memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated November 21, 2005.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2006.

OWNER:

Dittmar Properties, LP,
a Texas limited partnership

By: Dittmar Properties GP, Inc.,
a Texas corporation,
General Partner

By: _____
John R. Kleas,
President

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2006, by John R. Kleas, President of Dittmar Properties GP, Inc., a Texas corporation, on behalf of the corporation, and the corporation acknowledged this instrument as general partner on behalf of Dittmar Properties, LP, a Texas limited partnership.

Notary Public, State of Texas

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767-1088
Attention: Diana Minter, Legal Assistant



**Professional Land Surveying, Inc.
Surveying and Mapping**

EXHIBIT A

C14-05-0091

Office: 512-443-1724
Fax: 512-441-6987

2807 Manchaca Road
Building One
Austin, Texas 78704

**42.029 ACRE TRACT
WILLIAM CANNON LEAGUE**

A DESCRIPTION OF 42.029 ACRES (1,830,771 S.F.) OF LAND OUT OF THE WILLIAM CANNON LEAGUE, IN TRAVIS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER OF A 110.09 ACRE TRACT CONVEYED TO HEALTHCARE REHABILITATION OF AUSTIN, INC., IN THE SPECIAL WARRANTY DEED EXECUTED JULY 24, 1997 OF RECORD IN VOLUME 12988, PAGE 661 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS; SAID 42.029 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2" rebar with cap set in the south line of the remainder of the 110.09 acre tract, being also in the west line of a 67.532 acre tract recorded in Document No. 2001186037, of the Official Public Records of Travis County, Texas, in the north line of West Dittmar Road (right-of-way width varies) and the north line of a 0.063 acre tract recorded in Document No. 2003043681 of the Official Public Records of Travis County, Texas, from which a 1/2" rebar with cap set bears South 01°58'30" East, a distance of 19.58 feet;

THENCE with the south line of the remainder of the 110.09 acre tract, the north line of West Dittmar Road and the north line of the 0.063 acre tract, the following five (5) courses:

1. South 86°28'28" West, a distance of 68.64 feet to a 1/2" rebar with cap set;
2. South 87°15'45" West, a distance of 147.84 feet to a 1/2" rebar found;
3. South 87°57'55" West, a distance of 600.72 feet to a 1/2" rebar found for the beginning of a curve to the left;
4. 28.36 feet along the arc of said curve to the left, having a radius of 1745.00, and through a central angle of 00°55'52", the chord of which bears South 87°27'37" West, a distance of 28.36 feet to a 1/2" rebar found;
5. South 87°01'41" West, a distance of 164.10 feet to a 1/2" rebar with cap set for the southwest corner of the remainder of the 110.09 acre tract, being also in the east line of a 14.85 acre tract recorded in Volume 3387, Page 2048 of the Deed Records of Travis County, Texas, the north line of West Dittmar Road, and the northwest corner of the 0.063 acre tract, from which a 1/2" rebar found bears South 00°24'58" East, a distance of 4.37 feet;

THENCE with the common line of the 110.09 acre tract and the 14.85 acre tract, the

following two (2) courses:

1. North 00°09'16" West, a distance of 872.05 feet to a 1/2" rebar with cap found for an interior corner of the 110.09 acre tract, being also the northeast corner of the 14.85 acre tract;
2. South 87°19'00" West, a distance of 455.24 feet to a 1/2" rebar with cap found for a southwest corner of the 110.09 acre tract, being also the northwest corner of the 14.85 acre tract and in the southeast line of the Union Pacific Railroad (formerly the International-Great Northern Railroad)(100' right-of-way width);

THENCE North 29°28'41" East, along the northwest line of the 110.09 acre tract and the southeast right-of-way line of the Union Pacific Railroad, a distance of 2518.46 feet to a 1/2" iron pipe found for the northwest corner of the 110.09 acre tract, being also in the southeast right-of-way line of the Union Pacific Railroad and being the west corner of a 0.759 acre tract recorded in Volume 11191, Page 130, of the Real Property Records of Travis County, Texas;

THENCE leaving the southeast right-of-way line of the Union Pacific Railroad, South 60°30'00" East, along the common line of the 110.09 acre tract and the 0.759 acre tract, a distance of 147.94 feet to a 1" iron pipe found for a northeast corner of the 110.09 acre tract, being also in the south line of the 0.759 acre tract and in the northwest right-of-way line of Damon Road (50' right-of-way width)(cul-de-sac) for the beginning of a non-tangent curve to the left;

THENCE 141.60 feet along the arc of said curve to the left, having a radius of 45.07 feet, and through a central angle of 180°00'00", the chord of which bears South 26°53'17" East, a distance of 90.14 feet to a 1/2" rebar found for a northeast corner of the 110.09 acre tract, being also in the south right-of-way line of Damon Road (cul-de-sac) and the north corner of Lot 5, Damon Subdivision, a subdivision of record in Volume 6, page 31, Plat Records of Travis County, Texas;

THENCE leaving the south right-of-way line of Damon Road, along the common line of the 110.09 acre tract and the Damon Subdivision, for the following six (6) courses:

1. South 29°32'10" West, a distance of 325.01 feet to a 1/2" iron pipe found for an interior corner of the 110.09 acre tract;
2. North 87°52'02" East, a distance 113.24 feet to a 1" iron pipe found for an interior corner of the 110.09 acre tract;

3. North 87°39'28" East, a distance of 169.69 feet to a 1/2" rebar found for an exterior corner of the 110.09 acre tract being also an interior corner of the Damon Subdivision;
4. South 77°18'08" East, a distance of 205.42 feet to a 1/2" rebar with cap set for the beginning of a non-tangent curve to the right;
5. 83.28 feet along the arc of said non-tangent curve to the right, having a radius of 90.12 feet, and through a central angle of 52°56'42", the chord of which bears North 02°49'00" East, a distance of 80.35 feet to a 1/2" rebar found;
6. North 29°49'29" East, a distance of 44.54 feet to a 1/2" rebar with cap set for a north corner of the 110.09 acre tract, being also in the southwest line of the Damon Subdivision, the intersecting point of the southwest line of Damon Road with the west line of Sherwood Road (50' right-of-way width) and the northwest corner of a "Street Deed" recorded in Volume 3234, Page 1934, of the Deed Records of Travis County, Texas, for the beginning of a non-tangent curve to the left;

THENCE with the common line of the 110.09 acre tract, Sherwood Road and the said "Street Deed", the following three (3) courses:

1. 159.13 feet along the arc of said non-tangent curve to the left, having a radius of 75.36 feet, and through a central angle of 120°59'03", the chord of which bears South 31°14'40" East, a distance of 131.17 feet to a 1/2" rebar found;
2. North 88°04'39" East, a distance of 75.42 feet to a 60d nail found;
3. North 87°21'59" East, a distance of 333.29 feet to a 5/8" iron pipe found for the northeast corner of the 110.09 acre tract, being also in the south line of Sherwood Road, the southeast corner of the said "Street Deed" and the northwest corner of Brownleaf Estates, a subdivision of record in Volume 31, Page 48, Plat Records of Travis County, Texas;

THENCE leaving the south line of Sherwood Road, South 03°06'11" East, along the common line of the 110.09 acre tract and Brownleaf Estates, a distance of 250.00 feet to a 1/2" rebar with cap set in the east line of the 110.09 acre tract, being also in the west line of Brownleaf Estates and the northeast corner of a 67.532 acre tract recorded in Document No. 2001186037, of the Official Public Records of Travis County, Texas;

THENCE leaving the west line of Brownleaf Estates, over and across the 110.09 acre tract, with the north and west lines of the 67.532 acre tract, for the following 4 (four) courses:

1. South 87°21'59" West, a distance of 1058.75 feet to a 1/2" rebar with cap set for the northwest corner of the 67.532 acre tract;
2. South 29°28'31" West, a distance of 633.18 feet to a 1/2" rebar with cap set;
3. South 14°21'26" West, a distance of 673.06 feet to a 1/2" rebar with cap set;
4. South 08°45'22" East, a distance of 327.26 feet to a calculated point in the approximate centerline of a creek;

THENCE with the approximate centerline of said creek the following five (5) courses and distances:

1. South 82°28'58" East, a distance of 143.88 feet to a calculated point;
2. South 71°55'49" East, a distance of 178.70 feet to a calculated point;
3. South 34°04'25" East, a distance of 65.09 feet to a calculated point;
4. South 64°29'26" East, a distance of 330.28 feet to a calculated point;
5. South 89°20'05" East, a distance of 41.49 feet to a calculated point;

THENCE departing the approximate centerline of said creek, South 01°58'30" East, a distance of 459.74 feet to the **POINT OF BEGINNING**, containing an area of 42.029 acres of land, more or less.

Surveyed on the ground in August 2003. Bearing basis is grid azimuth for Texas central zone, 1983/93 HARN values from LCRA control network.


David Klotz

Registered Professional Land Surveyor
State of Texas No. 5428

